

File No. 150622

Committee Item No. 1

Board Item No. 13

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date November 9, 2015

Board of Supervisors Meeting

Date December 1, 2015

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Memorandum of Understanding (MOU)            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 - Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 700                                     |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Vacancy Notice                               |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Information Sheet                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

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|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination</u>                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Resolution No. 19490</u> |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
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Completed by: Alisa Somera Date November 6, 2015  
 Completed by: Alisa Somera Date November 12, 2015

[Administrative, Planning Codes - Preferences in Affordable Housing Programs]

1  
2  
3 Ordinance amending the Administrative Code to clarify existing preferences in  
4 allocating City affordable housing units first to Certificate of Preference holders and  
5 second to tenants evicted under the Ellis Act, expand the second category of  
6 preference for eligible tenants displaced under the Ellis Act to include certain tenants  
7 displaced through an Owner Move-In or OMI eviction, and create a third preference for  
8 residents in the neighborhood where the affordable housing is located—create  
9 ~~additional categories of eligible displaced tenants and provide for preference to~~  
10 ~~displaced tenants from the Neighborhood;~~ to make conforming amendments to  
11 provisions of the Administrative and Planning Codes; to affirm the Planning  
12 Department's determination under the California Environmental Quality Act; and to  
13 make findings of consistency with the General Plan, and the eight priority policies of  
14 Planning Code, Section 101.1.

15 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
16 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
17 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
18 **Board amendment additions** are in double-underlined Arial font.  
19 **Board amendment deletions** are in ~~Arial font~~.  
20 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
21 subsections or parts of tables.

22 Be it ordained by the People of the City and County of San Francisco:

23 Section 1. Findings.

24 (a) The Planning Department has determined that the actions contemplated in this  
25 ordinance comply with the California Environmental Quality Act (California Public Resources  
Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. 150622 and is incorporated herein by reference. The Board affirms  
2 this determination.

3 (b) On October 22, 2015, the Planning Commission, in Resolution No. 19498, adopted  
4 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
5 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
6 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
7 Board of Supervisors in File No. 150622, and is incorporated herein by reference.

8  
9 Section 2. The Administrative Code is hereby amended by deleting Section 24.8, as  
10 follows:

11 ~~SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS FOR~~  
12 ~~CERTIFICATE OF PREFERENCE HOLDERS AND DISPLACED TENANTS.~~

13 ~~This Section shall apply to all programs related to the provision of affordable housing, unless~~  
14 ~~specified otherwise. To the extent permitted by law, the Mayor's Office of Housing and Community~~  
15 ~~Development ("MOHCD") or its successor shall give or require project sponsors or their successors in~~  
16 ~~interest funded through MOHCD to give, preference in occupying units or receiving assistance under~~  
17 ~~all City affordable housing programs, including all former San Francisco Redevelopment Agency~~  
18 ~~affordable housing programs administered or funded by the City, first to Residential Certificate of~~  
19 ~~Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant~~  
20 ~~Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with~~  
21 ~~the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or assistance;~~  
22 ~~and second to any Displaced Tenant, as defined herein, who meets all of the qualifications for the unit~~  
23 ~~or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:~~  
24 ~~(i) a Displaced Tenant may apply the preference to existing, currently occupied developments only for~~  
25 ~~three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration~~

1 ~~Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to~~  
2 ~~the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the~~  
3 ~~San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~  
4 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~  
5 ~~going through the initial occupancy process only for six years from the date the landlord filed with the~~  
6 ~~Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis~~  
7 ~~Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new~~  
8 ~~residential development going through the initial occupancy process, the Displaced Tenant preference~~  
9 ~~shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's~~  
10 ~~preference shall still apply even if such Displaced Tenant declines a unit offered through application of~~  
11 ~~the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced~~  
12 ~~Tenant's preference terminates.~~

13 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
14 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
15 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
16 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
17 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
18 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
19 ~~this paragraph are directory rather than mandatory.~~

20 ~~For purposes of this Section, "Displaced Tenant" shall mean any tenant residing in San~~  
21 ~~Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to~~  
22 ~~withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the~~  
23 ~~corresponding provisions of the Rent Ordinance, cited above, and, who, as of the date of receipt of the~~  
24 ~~notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least~~  
25 ~~ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life.~~

1 ~~threatening illness as certified by his or her primary care physician or that he or she is disabled, as~~  
2 ~~defined in Administrative Code Section 37.9(i). MOHCD shall establish a process for a tenant to verify~~  
3 ~~his or her status as a "Displaced Tenant," which, at a minimum, shall require a tenant to show: (i) the~~  
4 ~~landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental~~  
5 ~~market; (ii) the tenant meets the ten or five year residency requirement stated above; and (iii) the~~  
6 ~~tenant either: (A) is listed on the notice of withdrawal; (B) is listed on the lease for the unit in question;~~  
7 ~~or (C) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she has~~  
8 ~~lived in the unit for the required five or ten year period as applicable. If the Rent Board grants a~~  
9 ~~landlord's request to rescind the Notice of Intent to Withdraw Rental Units under the Ellis Act before a~~  
10 ~~tenant moves out of his or her unit, such tenant shall no longer qualify as a "Displaced Tenant."~~  
11 ~~Additionally, if a person disputes a MOHCD determination that he or she does not qualify as a~~  
12 ~~"Displaced Tenant" under this Section, such person shall have the right to a hearing conducted by a~~  
13 ~~Rent Board Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with~~  
14 ~~MOHCD as the responding party.~~

15 ~~The Board of Supervisors shall hold a hearing on the status of this Section within 2 years of the~~  
16 ~~effective date of Ordinance 232-08 to assess its impact, or at such time as the MOHCD certifies to the~~  
17 ~~Board of Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference~~  
18 ~~holders obtaining an affordable housing unit by taking advantage of the applicable preferences in this~~  
19 ~~Section in all of the City's affordable housing programs combined exceeds 50% of the total number of~~  
20 ~~units made available through the City's affordable housing programs in that year.~~

21 ~~The Board of Supervisors shall hold an initial hearing to assess the impact of the Displaced~~  
22 ~~Tenant preference within one year of the effective date of the ordinance creating the Displaced Tenant~~  
23 ~~preference. The Board of Supervisors shall hold a subsequent hearing within three years of the effective~~  
24 ~~date, at which MOHCD and the Rent Board shall submit a report on the demographics and income~~  
25 ~~levels of beneficiaries of the Displaced Tenant preference system.~~

1  
2 Section 3. The Administrative Code is hereby amended by adding Chapter 47,  
3 consisting of Sections 47.1, 47.2, 47.3, 47.4, and 47.5 to read as follows:

4 **CHAPTER 47: PREFERENCE IN CITY AFFORDABLE HOUSING PROGRAMS**

5 **SEC. 47.1 FINDINGS AND PURPOSE.**

6 *Based on the information presented to the Board of Supervisors in Board of Supervisor's File*  
7 *No. 150622, staff presentations, and public testimony, the Board of Supervisors makes the following*  
8 *findings:*

9 *(a) In 2008, the City enacted Ordinance 232-08, to establish a preference in occupying units or*  
10 *receiving assistance under all City affordable housing programs to Residential Certificate of*  
11 *Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant*  
12 *Preference Program. In 2013, the City enacted Ordinance 277-13, to establish a second preference in*  
13 *occupying units or receiving assistance under all City affordable housing programs to certain San*  
14 *Francisco residents displaced by an eviction under the Ellis Act, California Government Code Section*  
15 *7060 et seq.*

16 *(b) From 2010 to 2014, eviction notices filed with the Rent Board for all causes (not*  
17 *just evictions under the Ellis Act) increased 45% Citywide. Within specific neighborhoods,*  
18 *including the Mission, the Sunset/Parkside, the Outer Richmond, the Tenderloin, and the*  
19 *Castro, the percentage of eviction notices recorded was significantly higher than the Citywide*  
20 *average. From 2010 to 2014, eviction notices filed with the Rent Board for all causes (not just*  
21 *evictions under the Ellis Act) increased 45% Citywide. Within specific neighborhoods,*  
22 *including the Mission, the Sunset/Parkside, the Outer Richmond, the Tenderloin, and the*  
23 *Castro, the percentage of eviction notices recorded was significantly higher than the Citywide*  
24 *average.*

1           ~~(e) (c)~~ From 2010 to 2014 ~~During that same period,~~ average residential rents increased  
2 54% Citywide. Moreover, rents in those neighborhoods with the highest number of eviction notices  
3 filed have risen by a greater percentage over the same time period, including the Castro (145%), the  
4 Outer Richmond (137%), the Sunset/Parkside (121%), and the Mission (by 108%).

5           ~~(ed) (d)~~ While current market rate rents in San Francisco are unaffordable to more than 60%  
6 of all rental households in the City, current market rate rents are unaffordable to 100% of all low- and  
7 moderate-income San Francisco households earning less than 120% Area Median Income.

8           ~~(e)~~ San Francisco tenants are being displaced through evictions, and current market  
9 rate rents are unaffordable to the majority of San Francisco renters. Thus, when  
10 displacement now occurs, remaining in San Francisco and paying market rate rent is not a  
11 viable option for most San Francisco residents, especially low and moderate income  
12 households. ~~(e)~~ San Francisco tenants are being displaced through evictions, and current  
13 market rate rents are unaffordable to the majority of San Francisco renters. Thus, when  
14 displacement now occurs, remaining in San Francisco and paying market rate rent is not a  
15 viable option for most San Francisco residents, especially low and moderate income  
16 households.

17           ~~(df) (f)~~ Affordable housing in San Francisco is a scarce resource with limited availability. In  
18 addition, production of affordable housing in San Francisco has not kept pace with population growth,  
19 nor have the Regional Housing Needs Allocation goals for affordable housing been met.

20           ~~(g)~~ A preference in qualifying for affordable housing for residents who have been, or  
21 are about to be, displaced is necessary to achieve the important public purpose of increasing  
22 opportunities for those residents to continue to live in San Francisco even as market rate rents  
23 rise. ~~(g)~~ A preference in qualifying for affordable housing for residents who have been, or are  
24 about to be, displaced is necessary to achieve the important public purpose of increasing  
25

1 opportunities for those residents to continue to live in San Francisco even as market rate rents  
2 rise.

3 (eh)(h) 2010 data show that overcrowding is an issue faced by San Franciscans Citywide, and  
4 that there are specific neighborhoods, including the Mission, Chinatown, and the Tenderloin, in which  
5 the percentage of overcrowded households is close to double that of the Citywide average.

6 (fi)(i) Compounding the problem of overcrowding, nearly half of all San Franciscans are  
7 currently rent burdened, paying more than 30% of household income toward rent. Approximately 22%  
8 of San Francisco renters are severely rent burdened, meaning they pay more than 50% of their  
9 household income toward rent.

10 (gj)(i) The high cost of housing is a significant factor in causing low- and very-low income  
11 households to leave the City: 63% of people who moved out of San Francisco between 2011-2013 were  
12 members of low- or very-low income households.

13 (hk)(k) It is a necessary and important public purpose to provide relief for these economic and  
14 social ills arising from the housing challenges facing most San Franciscans. But because of the trends  
15 in current San Francisco market rate rents, moving low- and very-low income households into market  
16 rate housing in San Francisco is not a viable option.

17 (il)(l) A limited preference for existing neighborhood residents that can be applied to a portion  
18 of new affordable housing developments in San Francisco will provide an opportunity to current low-  
19 and very-low income residents that are living in overcrowded housing configurations to move into  
20 appropriately sized units without leaving the community. This preference will also help provide relief  
21 for rent burdened low- and very-low income income households while allowing them to benefit from  
22 new affordable housing development within their communities.

23 (jm)(m) In addition, it is in the City's interest to assist residents in preserving their existing  
24 community-based safety nets, such as access to schools, after school programs, stores, community  
25 centers, places of worship, and health care providers. A neighborhood preference will help to preserve



1 community webs that serve as efficient safety nets and enhance the quality of life for neighborhood  
2 residents.

3 (kn)(n) Developers, community advocates, and residents have a long history of collaboration  
4 on housing development in San Francisco. A neighborhood preference for current low income  
5 residents for a portion of new affordable housing opportunities acknowledges this collaboration and  
6 will help increase participation in this process, which will in turn help generate additional support for,  
7 and contribute to, the successful approval of more affordable housing development in San Francisco.

8 **SEC. 47.2 DEFINITIONS.**

9 "City Affordable Housing Programs" shall mean, unless specified otherwise, all programs  
10 related to the provision of affordable housing administered or funded by MOHCD, including but not  
11 limited to Tax Exempt Bond Developments. "City Affordable Housing Programs" does not include  
12 programs or affordable housing units exclusively supported by the Department of Housing and Urban  
13 Development, the San Francisco Human Services Agency, the San Francisco Department of Public  
14 Health, or the San Francisco Housing Authority.

15 "Displaced Tenant" shall mean any person who applies to MOHCD and who MOHCD  
16 determines qualifies for any one of the categories enumerated under either of the categories the  
17 criterion below. If a person disputes MOHCD's determination that he or she does not qualify as a  
18 "Displaced Tenant" under this Section 47.2, such person shall have the right to a hearing conducted by  
19 a Rent Board Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with  
20 MOHCD as the responding party:

21 Category 1: A tenant residing in San Francisco who on or after January 1, 2010  
22 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant to the  
23 Ellis Act, Government Code Section 7060 et seq., and corresponding provisions of the Rent Ordinance.  
24 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced Tenant" under  
25 Category 1 that, at a minimum, shall require a tenant to show: (a) the landlord filed with the Rent

1 Board a Notice of Intent to Withdraw; and (b) the tenant either: (1) is listed on the Notice of Intent to  
2 Withdraw; (2) is listed on the lease for the unit in question; or (3) has other evidence sufficient to  
3 establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time the Notice of  
4 Intent to Withdraw was filed. If the Rent Board grants a landlord's request to rescind the Notice of  
5 Intent to Withdraw before a tenant moves out of his or her unit, such tenant shall no longer qualify as a  
6 "Displaced Tenant."

7 ~~Category 2: A tenant residing in San Francisco who on or after January 1, 2010~~  
8 ~~receives a notice that his or her landlord plans to recover possession of the unit for any one of~~  
9 ~~the "no fault" eviction provisions under Sections 37.9(a)(8) through (16) of the Rent~~  
10 ~~Ordinance. MOHCD shall establish a process for a tenant to verify his or her status as a~~  
11 ~~"Displaced Tenant" under Category 2 that, at a minimum, shall require a tenant to show: (a)~~  
12 ~~the landlord filed with the Rent Board the notice to vacate, as required under Rent Ordinance~~  
13 ~~Section 37.9(c); and (b) the tenant either: (1) is listed on the notice to vacate; (2) is listed on~~  
14 ~~the lease for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's~~  
15 ~~reasonable discretion, that he or she resided in the unit at the time the notice to vacate was~~  
16 ~~filed.~~

17 Category 2: A tenant residing in San Francisco who on or after January 1, 2010  
18 receives a notice that his or her landlord plans to recover possession of the unit under Section  
19 37.9(a)(8) of the Rent Ordinance and who, as of the date of receipt of the notice of withdrawal  
20 from the rental market, has resided in his or her unit continuously for at least ten years.  
21 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced  
22 Tenant" under Category 2 that, at a minimum, shall require a tenant to show: (a) the landlord  
23 filed with the Rent Board the notice to vacate, as required under Rent Ordinance Section  
24 37.9(c); and (b) the tenant either: (1) is listed on the notice to vacate; (2) is listed on the lease  
25 for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's

1 reasonable discretion, that he or she resided in the unit at the time the notice to vacate was  
2 filed; and (c) that the tenant has resided in the unit for 10 years as of the date of receipt of the  
3 notice of withdrawal from the rental market.

4 Category 3: A tenant residing in San Francisco who on or after January 1, 2010  
5 is ordered to vacate his or her unit by a public safety official due to fire or other disaster, and  
6 who can provide sufficient evidence to MOHCD that demonstrates that he or she cannot  
7 return to the unit within a reasonable period of time (as determined by MOHCD) thereafter.  
8 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced  
9 Tenant" under Category 3 that, at a minimum, shall require a tenant to show: (a) a public  
10 safety official provided an order to vacate the unit; and (b) the tenant either: (1) is listed on the  
11 order to vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence  
12 sufficient to establish, in MOHCD's reasonable discretion, that he or she resided in the unit at  
13 the time the order was provided.

14 Category 4: A tenant residing in San Francisco on or after January 1, 2010 in a  
15 unit that is subject to affordability restrictions in a Tax Exempt Bond Development, or a similar  
16 type of development with expiring affordability restrictions that the Director of MOHCD  
17 determines are unable to be extended, where such restrictions will expire within one year of  
18 the tenant's application to MOHCD for status as a Displaced Tenant, or have already expired.  
19 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced  
20 Tenant" under Category 4 that, at a minimum, shall require a tenant to show: (a) the landlord  
21 provided notice to the tenant that the affordability restrictions applicable to that unit have  
22 expired or will be expiring; and (b) the tenant either: (1) is listed on the notice regarding  
23 expiration of affordability restrictions; (2) is listed on the lease for the unit in question; or (3)  
24 has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she  
25 resided in the unit at the time the notice was provided to the tenant.

1           ~~Category 5: A tenant residing in San Francisco on or after January 1, 2010 in a~~  
2 ~~Below Market Rate unit restricted under the San Francisco Inclusionary Affordable Housing~~  
3 ~~Program, Planning Code Section 415 et seq., where the Below Market Rate unit is~~  
4 ~~transitioning from a rental unit to an ownership unit, and the tenant provides sufficient~~  
5 ~~evidence to MOHCD that demonstrates that he or she is not able to purchase the unit due to~~  
6 ~~financial reasons. MOHCD shall establish a process for a tenant to verify his or her status as~~  
7 ~~a "Displaced Tenant" under Category 5 that, at a minimum, shall require a tenant to show: (a)~~  
8 ~~the landlord provided notice to the tenant of the intent to convert the unit to an ownership unit;~~  
9 ~~and (b) the tenant either: (1) is listed on the notice; (2) is listed on the lease for the unit in~~  
10 ~~question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion,~~  
11 ~~that he or she resided in the unit at the time the notice was provided to the tenant.~~

12           ~~Category 6: A tenant residing in San Francisco on or after January 1, 2010 who~~  
13 ~~can document that he or she was, or will be, displaced due to the loss of a legal residential~~  
14 ~~unit through a residential demolition or residential merger (as both terms are defined in~~  
15 ~~Planning Code Section 317) authorized by any City permit, or the loss of an illegal unit~~  
16 ~~resulting from a merger or demolition authorized by any City permit. MOHCD shall establish a~~  
17 ~~process for a tenant to verify his or her status as a "Displaced Tenant" under Category 6 that,~~  
18 ~~at a minimum, shall require a tenant to show: (a) the Planning Commission or Planning~~  
19 ~~Department approved the residential demolition or residential merger; and (b) the tenant~~  
20 ~~either: (1) is listed on a Notice required by the Rent Board; (2) is listed on the lease for the unit~~  
21 ~~in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable~~  
22 ~~discretion, that he or she resided in the unit at the time the approval was granted.~~

23           ~~*"MOHCD" shall mean the Mayor's Office of Housing and Community Development or its*~~  
24 ~~*successor.*~~

1 "Neighborhood" shall mean any one of the 11 Supervisorial Districts as defined and  
2 established in the San Francisco Charter, Appendix E plus a buffer such that for each unit or project  
3 that is part of a City Affordable Housing Program "Neighborhood" means the Supervisorial District in  
4 which the unit or project is located, plus a ½ mile buffer around the location of the unit or project.

5 "Neighborhood Resident" shall mean any person who has a primary residence in a certain  
6 Neighborhood at the time he or she applies for a unit or assistance. MOHCD shall establish a process  
7 for a person to verify status as a "Neighborhood Resident" for a particular Neighborhood, which, at a  
8 minimum, shall require a person to show: (a) that he or she is listed on the lease for a unit in that  
9 Neighborhood; or (b) other evidence sufficient to establish, in MOHCD's reasonable discretion, that  
10 the person resides in a unit in that Neighborhood. If a person disputes a MOHCD determination that he  
11 or she does not qualify as a "Neighborhood Resident" under this Section 47.2, such person shall have  
12 the right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in  
13 Administrative Code Section 37.2(f)), with MOHCD as the responding party.

14 "Rent Board" shall mean the Residential Rent Stabilization and Arbitration Board.

15 "Rent Ordinance" shall mean the San Francisco Rent Stabilization and Arbitration Ordinance,  
16 Administrative Code Chapter 37.

17 "Residential Certificate of Preference Holders" shall mean a person who holds a Residential  
18 Certificate of Preference under the San Francisco Redevelopment Agency's Property Owner and  
19 Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on  
20 file with the Clerk of the Board in File No. 080521.

21 "Tax Exempt Bond Development" shall mean any housing development financed through a tax-  
22 exempt bond issuance that imposes rent and occupancy restrictions as a condition of the financing.

23 **SEC. 47.3 APPLICATION OF PREFERENCE.**

24 Except to the extent prohibited by an applicable State or Federal funding source, MOHCD shall  
25 give, or require project sponsors or their successors in interest funded through MOHCD to give,

1 preference in occupying units or receiving assistance under all City Affordable Housing Programs.  
2 Each preference enumerated below shall be applied as of the effective date of the legislation  
3 establishing each preference. The City established preference for holders of Certificates of Preference  
4 in Ordinance 232-08, Displaced Tenants, Category 1 in Ordinance 277-13, and Displaced Tenants,  
5 Categories 2 through 6 and Displaced Tenants, Category 2 and Neighborhood Residents in  
6 legislation adding this Chapter 47. The preference requirements are intended to have prospective  
7 effect only, and shall not be interpreted to impair the obligations of any pre-existing contract entered  
8 into by the City. Notwithstanding the prior sentence, the preference requirements shall apply to  
9 contracts entered into by the City on or after the effective date of the legislation establishing each  
10 preference, including contracts materially amended on or after the effective date. Preference shall be  
11 given:

12 (a) First, to Residential Certificate of Preference Holders, who meet all of the qualifications for  
13 the unit or assistance. Preference under this subsection (a) shall be given in 100% of the units in all  
14 initial sales, re-sales, initial leases, and subsequent leases.

15 (b) Second, to any Displaced Tenant who meets all of the qualifications for the unit or  
16 assistance. For any Displaced Tenant displaced prior to the effective date of this Chapter 47,  
17 preference under this subsection (b) shall expire six years from the effective date of this Chapter  
18 47. For any Displaced Tenant displaced after the effective date of this Chapter 47, preference under  
19 this subsection (b) shall expire six years from the date of the earliest of any of the following  
20 circumstances: (i) the landlord filed with the Rent Board a Notice of Intent to Withdraw or the  
21 landlord filed with the Rent Board the notice to vacate pursuant to the Rent Ordinance Section  
22 37.9(c); (ii) the landlord filed with the Rent Board the notice to vacate pursuant to the Rent  
23 Ordinance Section 37.9(e); (iii) a public safety official provided the order to vacate to the  
24 tenant; (iv) the landlord provided notice to the tenant that the affordability restrictions  
25 applicable to that unit will be expiring; (v) the landlord provided notice to the tenant that the

1 unit is transitioning from a rental unit to an ownership unit; or (vi) the residential demolition or  
2 residential merger of the tenant's unit, as defined in Planning Code Section 317, was  
3 approved by the Planning Commission or Planning Department. Preference under this  
4 subsection (b) shall be applicable to:

5 (1) 20% of the units in any new residential development that is part of a City Affordable  
6 Housing Program going through the initial occupancy or sale process; and

7 (2) units in all re-sales and subsequent leases until 20% of all units that are part of a  
8 City Affordable Housing Program in a building are occupied by tenants who have exercised this  
9 preference.

10 ~~\_\_\_\_\_ (3) 50% of the units for which Preference under this subsection (b) is applicable~~  
11 ~~will be prioritized for Displaced Tenants who were living in the Neighborhood in which the~~  
12 ~~units are located at the time of their displacement, such that 50% of the units in subsection (1)~~  
13 ~~subject to the preference shall be prioritized first for Displaced Tenants who were living in the~~  
14 ~~Neighborhood in which the units are located at the time of their displacement; and units~~  
15 ~~subject to subsection (2) shall be prioritized first for Displaced Tenants who were living in the~~  
16 ~~Neighborhood in which the units are located at the time of their displacement until 10% of all~~  
17 ~~the units that are part of a City Affordable Housing Program in a building are occupied by~~  
18 ~~Displaced Tenants who were living in the Neighborhood.~~

19 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a  
20 unit offered through application of the preference, but upon accepting and occupying a unit obtained  
21 using the preference, such Displaced Tenant's preference terminates.

22 (c) Third, to a Neighborhood Resident, who meets all of the qualifications for the unit or  
23 assistance. Preference under this subsection (c) shall be given:

24 (1) for units located in the same Neighborhood as the person resides;  
25

1                   (2) only for any new residential development in that Neighborhood going through the  
2 initial occupancy or sale process, and only to 40%25% of the units in such development.

3                   **SEC. 47.4. IMPLEMENTATION AND MONITORING.**

4                   (a) Certificate of Preference. The Board of Supervisors shall hold a hearing on the  
5 status of the legislation creating the Certificate of Preference preference, Ordinance 232-08,  
6 within two years of its effective date to assess its impact, or at such time as the MOHCD  
7 certifies to the Board of Supervisors that, if in any one fiscal year, the percent of Residential  
8 Certificate of Preference holders obtaining an affordable housing unit by taking advantage of the  
9 Certificate of Preference preference in all of the City's affordable housing programs combined exceeds  
10 50% of the total number of units made available through the City's affordable housing programs in that  
11 year, MOHCD shall submit a report to that effect to the Board of Supervisors along with a  
12 proposed resolution to formally accept the report.

13                   (b) Displaced Tenant and Neighborhood Preferences. MOHCD shall implement the Displaced  
14 Tenant and Neighborhood preference requirements of this Chapter 47 by developing procedures and  
15 amending its applicable regulations within 90 days of the effective date of the ordinance adding this  
16 Chapter 47. Said procedures and regulations shall be subject to approval by Resolution of the  
17 Board of Supervisors. The requirements of this paragraph are directory rather than mandatory.

18                   Within one year of the effective date of the ordinance adopting this Chapter 47 and  
19 annually thereafter, MOHCD shall submit to the The Board of Supervisors or a committee thereof  
20 shall hold an initial hearing to assess a report assessing the impact of the Displaced Tenant and  
21 Neighborhood preferences along with a proposed resolution to formally accept the report. The  
22 report shall include the following data:

23                   (1) the Number of applicants applying under Certificate of Preference, Owner  
24 Move In, Ellis Act, and Neighborhood preferences;

25                   (2) the District where the applicant is currently residing;



1                   (3) the District where the affordable housing unit the applicant is applying to is  
2 located;

3                   (4) whether the applicant is selected from a lottery or other means;

4                   (5) whether the applicant purchased or rented a unit; and

5                   (6) any other pertinent information.

6                   ~~within one year of the effective date of this Chapter 47. The Board of Supervisors or a~~  
7 ~~committee thereof shall hold a subsequent hearing w~~Within three years of the effective date of  
8 this Chapter 47, at which MOHCD and the Rent Board shall submit a report on the demographics and  
9 income levels of beneficiaries of the Displaced Tenant and Neighborhood preference system, along  
10 with a proposed resolution to formally accept the report.

11                   **SEC. 47.5. SEVERABILITY.**

12                   If any section, subsection, sentence, clause, phrase, or word of this Chapter 47, or any  
13 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
14 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining  
15 portions or applications of the Chapter. The Board of Supervisors hereby declares that it would have  
16 passed the ordinances establishing this Chapter and each and every section, subsection, sentence,  
17 clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other  
18 portion of this Chapter or application thereof would be subsequently declared invalid or  
19 unconstitutional.

20  
21                   Section 4. The Administrative Code is hereby amended by revising Sections 37.6,  
22 43.3.4, 10.100-110, and 10.100-370, to read as follows:

23                   **SEC. 37.6. POWERS AND DUTIES.**

24                   In addition to other powers and duties set forth in this Chapter, and in addition to  
25 powers under the Charter and under other City Codes, including powers and duties under

1 Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Board shall have  
2 the power to:

3 \* \* \* \*

4 (o) As provided by Administrative Code ~~Section~~ Chapter 24.847, utilize Administrative  
5 Law Judges to hear and decide petitions from persons who dispute the Mayor's Office of  
6 Housing and Community Development's determination that such person does not qualify as a  
7 "Displaced Tenant" *or a "Neighborhood Resident"* (each as defined in Administrative Code  
8 ~~Section~~ Chapter 24.847).

9  
10 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

11 Following payment of costs of issuance, 85 percent of the bond proceeds will be used  
12 for the development of affordable rental housing through the development account described  
13 in the regulations, and 15 percent of the bond proceeds will be used for downpayment  
14 assistance for low and moderate income first-time homebuyers through the downpayment  
15 assistance loan account described in the program regulations; including all legally permissible  
16 administrative costs related to the program. The Mayor's Office of Housing and Community  
17 Development ("MOHCD") shall develop procedures and amend its regulations such that, for  
18 all projects funded by this affordable housing and home ownership bond program, including  
19 multifamily rental projects and down payment assistance to individual households, it requires  
20 the project sponsor or its successor in interest to give preference in occupying units or  
21 receiving assistance as provided for in Administrative Code Chapter 47. first to Residential  
22 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner  
23 and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and  
24 on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or  
25 assistance; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who

1 ~~meets all of the qualifications for the unit or assistance, provided that the following limitations shall~~  
2 ~~apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,~~  
3 ~~currently occupied developments only for three years from the date the landlord filed with the~~  
4 ~~Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the~~  
5 ~~tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section~~  
6 ~~7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration~~  
7 ~~Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced~~  
8 ~~Tenant may apply the preference to new developments going through the initial occupancy process only~~  
9 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~  
10 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~  
11 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
12 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
13 ~~the units in such development. The Displaced Tenant's preference shall still apply even if such~~  
14 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
15 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

16 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
17 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
18 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
19 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
20 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
21 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
22 ~~this paragraph are directory rather than mandatory.~~

23 **SEC. 10.100-110. MAYOR'S HOUSING AFFORDABILITY FUND.**

24 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a  
25 category two fund to receive any prior legally binding obligations any grants, gifts, bequests

1 from private sources for the purposes cited in subsection (b), any monies repaid to the City as  
2 a result of loans made by the City to developers to assist in the development of affordable  
3 housing, any repayments of monies to the City where the City is beneficiary under a  
4 promissory note which was acquired as a result of the City's housing affordability assistance,  
5 any repayments of loans made from this fund and any monies otherwise appropriated to the  
6 fund.

7 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing  
8 financial assistance to for-profit and nonprofit housing developers, where the contribution of  
9 monies from the fund will allow units in a project to be affordable to persons and families of  
10 low and moderate income. City departments may recover any costs of administering any  
11 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of  
12 Housing and Community Development ("MOHCD") shall develop procedures and amend its  
13 regulations such that, for all projects funded by this fund, it requires the project sponsor or its  
14 successor in interest to give preference in occupying units or receiving assistance as provided  
15 for in Administrative Code Chapter 47. first to Residential Certificate of Preference Holders under the  
16 San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as  
17 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in  
18 File No. 080521, who meet all of the qualifications for the unit or assistance; and second to any  
19 Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications  
20 for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant  
21 preference: (i) a Displaced Tenant may apply the preference to existing, currently occupied  
22 developments only for three years from the date the landlord filed with the Residential Rent  
23 Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from  
24 the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the  
25 corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent

1 ~~Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply~~  
2 ~~the preference to new developments going through the initial occupancy process only for six years from~~  
3 ~~the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the~~  
4 ~~rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent~~  
5 ~~Ordinance; and (iii) for any new residential development going through the initial occupancy process,~~  
6 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~  
7 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~  
8 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~  
9 ~~obtained using the preference, such Displaced Tenant's preference terminates.~~

10 ~~—MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
11 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
12 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
13 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
14 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
15 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
16 ~~this paragraph are directory rather than mandatory.~~

17 **SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.**

18 (a) Establishment of Fund. The HOPE SF Fund is hereby established as a category  
19 four fund for the purpose of assisting in the replacement and/or rehabilitation of distressed  
20 public housing projects in the City and County of San Francisco.

21 \* \* \* \*

22 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of  
23 Housing and Community Development ("MOHCD"). The Director of MOHCD shall  
24 promulgate such rules and regulations as he or she may deem appropriate to carry out the  
25 provisions of the fund. Such rules and regulations shall be developed in consultation with any

1 appropriate agencies or organizations with which the Director, or his or her designee, may  
2 choose to consult. The rules and regulations shall be subject to a public hearing and  
3 approved by resolution of the Board of Supervisors. MOHCD shall develop procedures such  
4 that, for all projects funded by the HOPE SF Fund, MOHCD requires the project sponsor or its  
5 successor in interest to give preference in occupying units as provided for in Administrative Code  
6 Chapter 47, first to any current occupants of a housing development receiving Funds, second to  
7 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
8 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
9 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the  
10 qualifications for the unit; and third to any Displaced Tenant, as defined in Administrative Code  
11 Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following  
12 limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the  
13 preference to existing, currently occupied developments only for three years from the date the landlord  
14 filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to  
15 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government  
16 Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization  
17 and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;  
18 (ii) a Displaced Tenant may apply the preference to new developments going through the initial  
19 occupancy process only for six years from the date the landlord filed with the Rent Board a notice of  
20 intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and  
21 the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development  
22 going through the initial occupancy process, the Displaced Tenant preference shall apply only to  
23 twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still  
24 apply even if such Displaced Tenant declines a unit offered through application of the preference, but  
25

1 ~~upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's~~  
2 ~~preference terminates.~~

3 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
4 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
5 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
6 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
7 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
8 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
9 ~~this paragraph are directory rather than mandatory.~~

10  
11 Section 5. The Planning Code is hereby amended by revising Sections 413.10, 415.5,  
12 415.6 and 415.7, to read as follows:

13 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

14 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to  
15 Section 413.9 shall be deposited in the special fund maintained by the Controller called the  
16 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated  
17 in accordance with law to be used solely to increase the supply of housing affordable to  
18 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing  
19 and Community Development ("MOHCD") shall develop procedures such that, for all projects  
20 funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its  
21 successor in interest to give preference in occupying units as provided for in Administrative Code  
22 Chapter 47. first to Residential Certificate of Preference Holders under the San Francisco  
23 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September  
24 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who  
25 meet all of the qualifications for the unit; and second to any Displaced Tenant, as defined in

1 ~~Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance,~~  
2 ~~provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced~~  
3 ~~Tenant may apply the preference to existing, currently occupied developments only for three years from~~  
4 ~~the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board")~~  
5 ~~a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act,~~  
6 ~~California Government Code Section 7060 et seq. and the corresponding provisions of the San~~  
7 ~~Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~  
8 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~  
9 ~~going through the initial occupancy process only for six years from the date the landlord filed with the~~  
10 ~~Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis~~  
11 ~~Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new~~  
12 ~~residential development going through the initial occupancy process, the Displaced Tenant preference~~  
13 ~~shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's~~  
14 ~~preference shall still apply even if such Displaced Tenant declines a unit offered through application~~  
15 ~~of the preference, but upon accepting and occupying a unit obtained using the preference, such~~  
16 ~~Displaced Tenant's preference terminates.~~

17 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
18 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
19 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
20 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
21 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
22 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements~~  
23 ~~of this paragraph are directory rather than mandatory.~~

24 The Fund shall be administered and expended by the Director of MOHCD, who shall  
25 have the authority to prescribe rules and regulations governing the Fund which are consistent



1 with Section 413.1et seq. No portion of the Fund may be used, by way of loan or otherwise, to  
2 pay any administrative, general overhead, or similar expense of any entity.

3 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

4 \* \* \* \*

5 (f) Use of Fees. All monies contributed pursuant to this Section shall be deposited in  
6 the special fund maintained by the Controller called the Citywide Affordable Housing Fund.  
7 The Mayor's Office of Housing and Community Development ("MOHCD") shall use the funds  
8 in the following manner:

9 (1) Except as provided in subsection (2) below, the receipts in the Fund are  
10 hereby appropriated in accordance with law to be used to:

11 (A) increase the supply of housing affordable to qualifying households  
12 subject to the conditions of this Section; and

13 (B) provide assistance to low and moderate income homebuyers; and

14 (C) pay the expenses of MOHCD in connection with monitoring and  
15 administering compliance with the requirements of the Program. MOHCD is authorized to use  
16 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under  
17 Section 415.9(e) and to update the affordable housing fee amounts as described above in  
18 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated  
19 through the annual budget process or supplemental appropriation for MOHCD. The fund shall  
20 be administered and expended by MOHCD, which shall have the authority to prescribe rules  
21 and regulations governing the Fund which are consistent with this Section.

22 (2) "Small Sites Funds."

23 (A) Designation of Funds. MOHCD shall designate and separately  
24 account for 10% percent of all fees that it receives under Section 415.1et seq., excluding fees  
25 that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to

1 support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall  
2 continue to divert 10 percent of all fees for this purpose until the Small Sites Funds reach a  
3 total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At  
4 such time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD  
5 shall start designating funds again for this purpose, such that at no time the Small Sites Funds  
6 shall exceed \$15 million. When the total amount of fees paid to the City under Section  
7 415.1et seq. totals less than \$10 million over the preceding 12 month period, MOHCD is  
8 authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD  
9 must keep track of the diverted funds, however, such that when the amount of fees paid to the  
10 City under Section 415.1et seq. meets or exceeds \$10 million over the preceding 12 month  
11 period, MOHCD shall commit all of the previously diverted funds and 10 percent of any new  
12 funds, subject to the cap above, to the Small Sites Fund.

13 (B) Use of Small Sites Funds. The funds shall be used exclusively to  
14 acquire or rehabilitate "Small Sites" defined as properties consisting of less than 25 units.  
15 Units supported by monies from the fund shall be designated as housing affordable to  
16 qualifying households as defined in Section 415.1 for no less than 55 years. Properties  
17 supported by the Small Sites Funds must be either:

18 (i) rental properties that will be maintained as rental properties;  
19 (ii) vacant properties that were formerly rental properties as long  
20 as those properties have been vacant for a minimum of two years prior to the effective date of  
21 this legislation;

22 (iii) properties that have been the subject of foreclosure; or

23 (iv) a Limited Equity Housing Cooperative as defined in  
24 Subdivision Code Sections 1399.1et seq. or a property owned or leased by a non-profit entity  
25 modeled as a Community Land Trust.

1 (C) Initial Funds. If, within 18 months from April 23, 2009 ~~the date of~~  
2 ~~adoption of this ordinance~~, MOHCD dedicates an initial one-time contribution of other eligible  
3 funds to be used initially as Small Sites Funds, MOHCD may use the equivalent amount of  
4 Small Sites Funds received from fees for other purposes permitted by the Citywide Affordable  
5 Housing Fund until the amount of the initial one-time contribution is reached.

6 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a  
7 report to the Board of Supervisors regarding the amount of Small Sites Funds received from  
8 fees under this legislation, and a report of how those funds were used.

9 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the  
10 Board of Supervisors does not intend to preclude MOHCD from expending other eligible  
11 sources of funding on Small Sites as described in this Section, or from allocating or expending  
12 more than \$15 million of other eligible funds on Small Sites.

13 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD  
14 requires the project sponsor or its successor in interest to give preference as provided for in  
15 Administrative Code Chapter 47. in occupying units first to Residential Certificate of Preference  
16  Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference  
17  Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of  
18  the Board in File No. 080521, who otherwise meet all of the requirements for a unit; and second to any  
19  Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications  
20  for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant  
21  preference: (i) a Displaced Tenant may apply the preference to existing, currently occupied  
22  developments only for three years from the date the landlord filed with the Residential Rent  
23  Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from  
24  the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the  
25  corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent

1 ~~Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply~~  
2 ~~the preference to new developments going through the initial occupancy process only for six years from~~  
3 ~~the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the~~  
4 ~~rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent~~  
5 ~~Ordinance; and (iii) for any new residential development going through the initial occupancy process,~~  
6 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~  
7 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~  
8 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~  
9 ~~obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it is the~~  
10 ~~policy of the City to treat all households equally in allocating affordable units under this Program:~~

11 \* \* \* \*

12 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

14 \* \* \* \*

15  
16 (d) Marketing the Units. The Mayor's Office of Housing and Community Development  
17 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable  
18 units under this Section. In general, the marketing requirements and procedures shall be  
19 contained in the Procedures Manual as amended from time to time and shall apply to the  
20 affordable units in the project. MOHCD may develop occupancy standards for units of  
21 different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of  
22 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers  
23 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a  
24 list of minimum qualifications for marketing firms that market affordable units under Section  
25 415.5 et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No

1 developer marketing units under the Program shall be able to market affordable units except  
2 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or  
3 conditions of approval shall specify that the marketing requirements and procedures  
4 contained in the Procedures Manual as amended from time to time, shall apply to the  
5 affordable units in the project.

6 (1) Lottery. At the initial offering of affordable units in a housing project and  
7 when ownership units become available for re-sale in any housing project subject to this  
8 Program after the initial offering, MOHCD must require the use of a public lottery approved by  
9 MOHCD to select purchasers or tenants.

10 (2) Preferences. MOHCD shall create a lottery system that gives preference  
11 according to the provisions of Administrative Code Chapter 47. the following preferences (A) first to  
12 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
13 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
14 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications  
15 of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,  
16 who meets all of the qualifications for the unit or assistance, provided that the following limitations  
17 shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to  
18 existing, currently-occupied developments only for three years from the date the landlord filed with the  
19 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
20 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
21 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration  
22 Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced  
23 Tenant may apply the preference to new developments going through the initial occupancy process only  
24 for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the  
25 tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding

1 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
2 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
3 ~~the units in such development; and (C) third to people who live or work in San Francisco who meet the~~  
4 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~  
5 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
6 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

7 MOHCD shall propose policies and procedures for implementing these preferences to the  
8 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the  
9 City to treat all households equally in allocating affordable units under this Program.

10 \* \* \* \*

11 **SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.**

12 \* \* \* \*

13 (e) Marketing the Units. MOHCD shall be responsible for overseeing and monitoring  
14 the marketing of affordable units under this Section. In general, the marketing requirements  
15 and procedures shall be contained in the Procedures Manual as amended from time to time  
16 and shall apply to the affordable units in the project. MOHCD may develop occupancy  
17 standards for units of different bedroom sizes in the Procedures Manual in order to promote  
18 an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that  
19 prospective purchasers complete homebuyer education training or fulfill other requirements.  
20 MOHCD shall develop a list of minimum qualifications for marketing firms that market  
21 affordable units under Section 415.1et seq., referred to the Procedures Manual as Below  
22 Market Rate (BMR units). No project sponsor marketing units under the Program shall be  
23 able to market BMR units except through a firm meeting all of the minimum qualifications.  
24 The Notice of Special Restrictions or conditions of approval shall specify that the marketing  
25

1 requirements and procedures contained in the Procedures Manual as amended from time to  
2 time, shall apply to the affordable units in the project.

3 (1) Lottery. At the initial offering of affordable units in a housing project and  
4 when ownership units become available for resale in any housing project subject to this  
5 Program after the initial offering, MOHCD must require the use of a public lottery approved by  
6 MOHCD to select purchasers or tenants.

7 (2) Preferences. MOHCD shall create a lottery system that gives preference  
8 according to the provisions of Administrative Code Chapter 47. the following preferences: (A) first to  
9 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
10 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
11 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications  
12 of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,  
13 who meets all of the qualifications for the unit for assistance, provided that the following limitations  
14 shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to  
15 existing, currently occupied developments only for three years from the date the landlord filed with the  
16 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
17 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
18 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration  
19 Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced  
20 Tenant may apply the preference to new developments going through the initial occupancy process only  
21 for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the  
22 tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding  
23 provisions of the Rent Ordinance; and (iii) for any new residential development going through the  
24 initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of  
25 the units in such development; and (C) third to people who live or work in San Francisco who meet the

1 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~  
2 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
3 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

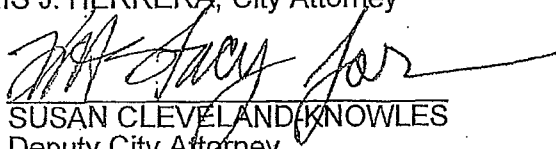
4 MOHCD shall propose policies and procedures for implementing these preferences to the  
5 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the  
6 City to treat all households equally in allocating affordable units under this Program.

7 \* \* \* \*

8  
9 Section 6. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance.

13  
14 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
18 additions, and Board amendment deletions in accordance with the "Note" that appears under  
19 the official title of the ordinance.

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By:   
24 SUSAN CLEVELAND KNOWLES  
25 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**

(11/17/2015, Amended in Board)

[Administrative, Planning Codes - Preferences in Affordable Housing Programs]

**Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through an Owner Move-In or OMI eviction, and create a third preference for residents in the neighborhood where the affordable housing is located; to make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Existing Law

Currently, two tenant selection preferences apply to all affordable housing programs that the Mayor's Office of Housing and Community Development ("MOHCD") administers or funds ("City Affordable Housing Programs"). Current law provides preference to holders of Certificates of Preference (COPs) issued under a former Redevelopment Agency program to tenants displaced from certain redevelopment areas. The COP preference applies to 100% of all available affordable housing, both at initial sale or lease and upon re-sale or re-lease.

Second, current law provides preference in all City Affordable Housing Programs to certain "Displaced Tenants," defined as tenants evicted under the State Ellis Act, California Government Code 7060 and following, who have lived in their unit continuously for at least ten years, or five years if they have a life-threatening illness or are disabled. The preference applies to 20% of all new affordable housing units during initial sale or lease up, and 100% of all existing affordable housing units upon re-sale or re-lease. A person can use the preference on an existing unit for up to three years after displacement, and on a new unit for up to six years after displacement.

A holder of any preference applying for a unit must still meet all eligibility requirements applicable for that unit under the applicable affordable housing program.

Amendments to Current Law

The proposed ordinance makes no changes to the COP preference.

The proposed ordinance expands the definition of "Displaced Tenant." In addition to tenants displaced by an Ellis Act eviction, the definition of Displaced Tenant will include a tenant displaced by an owner move in (OMI) eviction. In order to qualify, a tenant must demonstrate that on or after January 1, 2010, he or she received a notice that his or her landlord plans to recover possession of the unit under the OMI provisions of the Rent Ordinance (Section 37.9(a)(8)) and who, as of the date of receipt of the notice of withdrawal from the rental market, has resided in his or her unit continuously for at least ten years.

The proposed ordinance adds a third "Neighborhood Preference." "Neighborhood" is defined as any one of San Francisco's 11 supervisorial districts plus a buffer such that for each unit or project that is part of a City Affordable Housing Program "Neighborhood" means the Supervisorial District in which the unit or project is located, plus a ½ mile buffer around the location of the unit or project. "Neighborhood Resident" means a person who has a primary residence in a certain Neighborhood at the time they apply for an affordable housing unit. The preference applies only to 40% of the units in newly constructed affordable housing during initial sale or lease, and only after the COP and Displaced Tenant preferences.

In all cases, the preference does not apply if prohibited by an applicable State or Federal funding source. And, in all cases a holder of any preference applying for a unit must still meet all eligibility requirements applicable for that unit under the applicable affordable housing program. The proposed ordinance also makes conforming changes to other parts of the Planning and Administrative Codes and requires an annual report from MOHCD to the Board of Supervisors including specific data on the Program.

#### Background

The legislation as originally introduced included a proposal to expand the definition of Displaced Tenant. On November 2, 2015 at the Land Use Committee, the Committee duplicated the file and deleted the provisions related to the expanded definition of Displaced Tenant from the Proposed Legislation. The Mayor's Office of Housing and Community Development will conduct further outreach on expanding the definition of Displaced Tenant and further refine the proposal to be considered at a later time. On November 17, 2015, the Board again amended the legislation to expand the definition of Displaced Tenant to include tenants evicted under an owner move in eviction.

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BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

September 29, 2015

File No. 150622

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On September 22, 2015, Mayor Lee introduced the following substitute legislation:

**File No. 150622**

**Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and provide for preference to displaced tenants from the Neighborhood; to make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

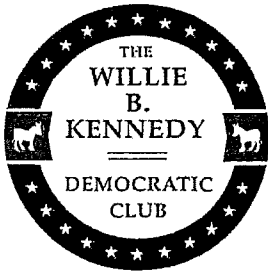
By: Andrea Ausberry, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Sections 1537 and 15060(c)(2) because it does not result in a physical change in the environment.





## The Willie B. Kennedy Democratic Club

PO Box 883221, San Francisco CA, 94188

Toye Moses,  
*President*

Veronica Hunnicutt,  
*1<sup>st</sup> Vice President*

Julius Thurman,  
*2<sup>nd</sup> Vice President*

Frederick Jordan  
*Treasurer*

Micah Fobbs,  
*Financial Secretary*

Linda Fadeke Richardson  
*Chair, PAC*

Lisa Williams  
*Co-Chair, PAC*

Shamaan Walton  
*Chair, Membership*

Leah Pimentel  
*Secretary*

*Executive Board*  
Lamonte Bishop  
Lance Burton  
Dwayne Jones

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
Room 244  
San Francisco CA, 94102

November 17, 2015

Honorable President London Breed:

We write to you in support of the Neighborhood Preference for affordable housing legislation as it is currently drafted.

San Francisco is unique and desired for its neighborhoods. But those neighborhoods are quickly losing their historic character, populations and soul and we must step in and lend our voice and commitment to ensure residents stay in the neighborhoods they helped to build, grew up in and raised their families in.

A neighborhood preference of 40% for affordable housing will play a significant role in directly addressing the displacement of low and middle income families from San Francisco. While this legislation alone is not a panacea to the plight of inequitable access to affordable housing in San Francisco it a bold first step that should have been put in place years ago.

Longtime residents who apply for affordable housing units through our lottery system, get lost amongst the thousands of people that apply both from within and outside of our City limits, forcing them to compete for a small number of affordable units, this legislation will give people that are from a community a better chance at staying not only in San Francisco but in the community they are from.

The long term positive effects of a neighborhood preference for all San Franciscans will not be seen for a generation, but we must start now in order to have a chance in the future at maintaining the culture of San Francisco that we all pride ourselves on.

We again respectfully request that you pass the neighborhood preference legislation in its current form: 40% neighborhood preference defined by supervisory district.

Sincerely,

*The Willie B. Kennedy Democratic Club*

Cc: Honorable Supervisor John Avalos  
Honorable Supervisor David Campos  
Honorable Supervisor Julie Christensen  
Honorable Supervisor Malia Cohen  
Honorable Supervisor Mark Farrell  
Honorable Supervisor Jane Kim  
Honorable Supervisor Eric Mar  
Honorable Supervisor Katy Tang  
Honorable Supervisor Scott Wiener  
Honorable Supervisor Norman Yee  
Ms. Angela Calvillo, Clerk of the Board of Supervisors



# SAN FRANCISCO PLANNING DEPARTMENT

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October 21, 2015

Ms. Angela Calvillo, Clerk of the Board of Supervisors  
Honorable Mayor Lee  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2015-008208PCA  
Clarifying/Creating Preferences for Affordable Housing Units  
Board File No. 150622.  
Planning Commission Recommendation: Approval with Modification**

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Ms. Calvillo and Mayor Lee:

On September 24, 2015 and October 22, 2015 the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Sections 413.10, 415.5, 415.6, and 415.7, introduced by Mayor Lee and Supervisor Chirstensen, Cohen, Breed and Wiener. At the hearing the Planning Commission recommended approval with modifications.

The Commission's proposed modifications were as follows:

- Remove the proposed amendments that would expand the existing Displaced Tenant preference beyond the existing preference for tenants evicted under the provisions of the Ellis Act. A separate piece of legislation should address the Displaced Tenant preference and should be sent to the Planning Commission for review.
- Approve the Neighborhood Preference at the Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius. The Commission also asked the Board to consider geographic boundaries smaller than the Supervisor District.
- Recognize that there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) (2) and 15378 because they do not result in a physical change in the environment.

Mayor Lee please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Aaron D. Starr  
Manager of Legislative Affairs

cc:

Susan Cleveland Knowles, Deputy City Attorney  
Kanishka Burns, Aide to Supervisor Christensen  
Andrea Bruss, Aide to Supervisor Cohen  
Conor Johnston, Aide to Supervisor Breed  
Andres Power, Aide to Supervisor Wiener  
Nicole Elliott, Office of Mayor Edwin M. Lee  
Sophie Hayward, Mayor's Office of Housing and Community Development  
Alisa Somera, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution  
Planning Department Executive Summary





# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 19498

HEARING DATE OCTOBER 22, 2015  
Continued from the September 24, 2015 Hearing

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Project Name:* Clarifying/Creating Preferences for Affordable Housing Units  
*Case Number:* 2015-008208PCA [Board File No. 150622]  
*Initiated by:* Mayor Ed Lee, Supervisors Christensen, Cohen, Breed, and Wiener  
Introduced June 30, 2015  
*Staff Contact:* Menaka Mohan, Legislative Affairs  
[Menaka.Mohan@sfgov.org](mailto:Menaka.Mohan@sfgov.org), 415-575-9141  
*Reviewed by:* Aaron Starr, Manager Legislative Affairs  
[Aaron.Starr@sfgov.org](mailto:Aaron.Starr@sfgov.org), 415-558-6362  
*Recommendation:* Recommend Approval with Modifications

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE ADMINISTRATIVE AND PLANNING CODES; SECTIONS 24.8, 47.1, 47.2, 47.3, 47.4, AND 47.5, 10.100-110, 10.100-370, OF THE ADMINISTRATIVE CODE AND PLANNING CODE SECTIONS 413.10, 415.5, 415.6, 415.7, 413.10, 415.5, 415.6, AND 415.7 TO DEFINE AND ESTABLISH A PREFERENCE IN ALL AFFORDABLE HOUSING PROGRAMS ADMINISTERED OR FUNDED BY THE CITY; ADOPT FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on June 30, 2015, Mayor Lee and Supervisors Christensen, Cohen, Breed, and Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 15-0622, which would amend Sections 24.8, 47.1, 47.2, 47.3, 47.4, and 47.5, 10.100-110, 10.100-370, of the administrative code and planning code sections 413.10, 415.5, 415.6, 415.7, 413.10, 415.5, 415.6, to add a new category of preference for neighborhoods;

WHEREAS, neighborhood is defined as Supervisor District plus a ½ mile buffer around a project;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 24, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with recommendations** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Remove the proposed amendments that would expand the existing Displaced Tenant preference beyond the existing preference for tenants evicted under the provisions of the Ellis Act. A separate piece of legislation should address the Displaced Tenant preference and should be sent to the Planning Commission for review.
2. Approve the Neighborhood Preference at the Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius. The Commission also asked the Board to consider geographic boundaries smaller than the Supervisor District.
3. Recognize that there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. 2010 data show that overcrowding is an issue faced by San Franciscans Citywide, and that there are specific neighborhoods, including the Mission, Chinatown, and the Tenderloin, in which the percentage of overcrowded households is close to double that of the Citywide average. A preference for existing neighborhood residents that can be applied to a portion of new affordable housing developments in San Francisco will provide an opportunity to current low- and very-low income residents that are living in overcrowded housing configurations to move into appropriately sized units without leaving the community.

**General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are, *on balance*, consistent with the Objectives and Policies of the General Plan (Staff discussion is added in *italic font* below):

### HOUSING ELEMENT

**OBJECTIVE 5**

Ensure that all residents have equal access to available units.

**POLICY 5.2**

Increase access to housing, particularly for households who might not be aware of their housing choices.

*Residents who might face overcrowding in certain neighborhoods will be provided a new preference for the City's Affordable Housing Units allowing them increased access to housing choices with the ability to remain in the neighborhood.*

8. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:
1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;  
  
*The proposed amendments will not have a negative effect on neighborhood serving retail uses and will not affect opportunities for resident employment in and ownership of neighborhood-serving retail.*
  2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;  
  
*The amendments will not affect existing housing and neighborhood character.*
  3. That the City's supply of affordable housing be preserved and enhanced;  
  
*The proposed amendments will not affect the supply of affordable housing.*
  4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;  
  
*The proposed amendments will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*
  5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;  
  
*The proposed amendments would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*
  6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed ordinance would not negatively affect preparedness in the case of an earthquake.*

7. That the landmarks and historic buildings be preserved;

*Landmarks and historic buildings would not be negatively affected by the proposed amendments.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.*

**Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with the modification as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 22, 2015.

Jonas P. Ionin  
Commission Secretary

AYES: Fong, Wu, Antonini, Johnson, Hillis, Richards

NOES:

ABSENT: Moore

ADOPTED: October 22, 2015



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Planning Code Text Change HEARING DATE: SEPTEMBER 24, 2015

*Project Name:* Clarifying/Creating Preferences for Affordable Housing Units  
*Case Number:* 2015-008208PCA [Board File No. 150622]  
*Initiated by:* Mayor Ed Lee, Supervisors Christensen, Cohen, Breed, and Wiener/ Introduced June 30, 2015  
*Staff Contact:* Menaka Mohan, Legislative Affairs  
[menaka.mohan@sfgov.org](mailto:menaka.mohan@sfgov.org), 415-575-9141  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org), 415-558-6362  
*Recommendation:* **Recommend Approval with Modifications**

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Administrative Code to clarify existing preference in allocating City affordable housing units to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and make conforming amendments to provisions of the Administrative and Planning Codes; Sections 24.8, 47.1, 47.2, 47.3, 47.4, and 47.5, 10.100-110, 10.100-370, of the Administrative Code and Planning Code Sections 413.10 (Citywide Affordable Housing Fund), 415.5 (Affordable Housing Fee), 415.6 (On-Site Affordable Housing Alternative), and 415.7 (Off-Site Affordable Housing Alternative).

#### The Way It Is Now:

1. Preference for occupying affordable units or receiving assistance as part of San Francisco's Affordable Housing programs is defined in both the Administrative Code and the Planning Code.
2. In both the Administrative Code and the Planning Code, preference is given to Residential Certificate of Preference (COP) holders<sup>1</sup> who meet all of the qualifications for the unit, or for the assistance. Second preference is given to Displaced Tenants (as defined in the Administrative Code) in occupying units or in receiving assistance from any of the funds, fees, or alternatives associated with affordable housing. In the case of HOPE SF funded projects, first preference is given to occupants of existing housing, and second preference to COP holders. Displaced Tenant is defined as residents who were displaced due to an Ellis Act eviction.

<sup>1</sup>A Certificate of Preference is a document originally issued by the San Francisco Redevelopment Agency to residents displaced by the Agency in the 1960s as a result of federally funded urban renewal programs. With the 2012 dissolution of the Redevelopment Agency, the Mayor's Office of Housing has taken over the administration and management of the COP program. Information is available online at:

[http://www.sfredevelopment.org/ftp/uploadedfiles/Programs/COP\\_FAOs-Revised\\_March\\_2009.pdf](http://www.sfredevelopment.org/ftp/uploadedfiles/Programs/COP_FAOs-Revised_March_2009.pdf) (November 4, 2013)

**The Way It Would Be:**

1. Preference for San Francisco's Affordable housing program would be removed from the Planning Code and replaced with a reference to the Administrative Code. A new chapter will be created in the Administrative Code where preferences for the City's affordable housing program would be defined.
2. The Administrative Code would be amended to add additional categories of Displaced Tenants to include all no-fault evictions, tenants who are displaced due to fire and natural disasters, as well as to tenants who are living in units where the affordability restriction is ending. Additionally, a third preference will be created for residents in the neighborhood where the affordable housing is added, where neighborhood is defined as Supervisorial District.

**ISSUES AND CONSIDERATIONS**

The draft Ordinance makes two significant amendments to the existing two-tiered preferences that apply to affordable housing lotteries: it expands the existing Ellis Act Displacement Preference to include tenants displaced through any form of no-fault eviction, and it creates a third preference category for existing residents in neighborhoods in which affordable housing is constructed.

The units covered under this ordinance are defined under "City Affordable Housing Programs" which are all programs related to the provision of affordable housing administered or funded by MOHCD, including but not limited to the Inclusionary Housing program, multi-family, 100% affordable rental units, and Tax Exempt Bond Developments. These units are subject to income requirements, which apply to all preference categories.

**Expanding the Displaced Tenant Definition**

The draft Ordinance expands the definition of Displaced Tenant to include all no-fault evictions, tenants who are displaced due to fire and natural disasters, as well as to tenants who are living in units where the affordability restriction is ending. Expanding the Displaced Tenant category to include all no fault evictions would cover tenants who have been displaced due to owner move-ins, demolition, and condominium conversion as described in the Rent Ordinance Section 37.9C. "Just Cause" evictions such as tenant defaults, including breach of rental agreement, non-payment or habitual late payment of rent, and committing a nuisance are not covered under this ordinance.

The draft Ordinance expands the definition of Displaced Tenant to recognize the sharp 45% increase from 2010-2014 in the number of eviction notices filed with the Rent Board for all causes. The Annual Statistical Report 2013-2014 from the Rent Board states, "Total eviction notices filed with the Board increased by 7% from 1,934 to 2,064 while the number of tenant reports of alleged wrongful eviction decreased by 5% from 497 to 471. The number of units withdrawn from the rental market under the Ellis Act increased from 121 to 192 units."<sup>2</sup>

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<sup>2</sup> San Francisco Residential Rent Stabilization and Arbitration Board Annual Statistical Report 2013-2014. Available online at <http://www.sfrb.org/modules/showdocument.aspx?documentid=2756> (September 17, 2014).

This Table highlights statistics from the Rent Board Fiscal Year 2013-2014<sup>3</sup>:

Eviction Type	Units Impacted
Ellis Act	304
Development Agreements	0
Owner Move-Ins	307
Nuisance	359
Breach of Lease	646
Other Eviction Types	448
<b>Total Eviction Notices</b>	<b>2064</b>

From 2010-2014, evictions for all causes have increased by 45% Citywide, with specific neighborhoods including the Mission (108%), the Sunset (121%), the Outer Richmond (137%), the Tenderloin and the Castro (145%) with significantly higher rates of evictions. During the same period residential rates increased 54% Citywide. Current market rate rents in San Francisco are unaffordable to more than 60% of all rental households in the City, and unaffordable to 100% of all low and moderate income households those earning less than 120% AMI-for a family of four (\$122,300). The affordability gap also extends to families who earn 150% of the AMI as the majority of households need to earn well above 175% AMI (\$160,475 for a household of 3) to afford the average purchase price of a home in San Francisco

**Existing Affordable Housing Preferences: COP and Ellis Preferences**

MOHCD’s procedures require that tenants who were displaced in the 1960s by the San Francisco Redevelopment Agency (“Agency”) when it implemented its federally funded urban renewal program receive first preference to apply for affordable housing units. This existing preference, called the Certificate of Preference (COP) Program, is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008.<sup>4</sup>

The Ellis Act Housing Preference is a second preference category that was added through Ordinance 277-13, (BF130968), passed by the Board of Supervisors and signed by the Mayor on December 18, 2013. The Ellis Act Housing Preference was enacted in 2014 due to the increased percentage of Ellis Act evictions that occurred in 2013 (145.5% increase from February 2013 to September 2013).

From 2012 (when MOHCD took over the COP Program from the former Redevelopment Agency) to the present, 242 COPs have been issued and 50 COP holders have been housed: three in Below Market Rate Inclusionary (“BMR”) BMR ownership units, 13 in BMR rental units, and 34 in multifamily affordable developments. Since the Ellis Act Housing Preference program’s start in

<sup>3</sup> Ibid.

<sup>4</sup> <http://www.sf-moh.org/index.aspx?page=268> (November 13, 2013).

2014, 141 Ellis Act Housing Preference Certificates have been issued and 36 Ellis Act Housing certificate holders have received housing; 7 in BMR ownership units, 13 in BMR rental units, and 16 in multifamily affordable rental units.

### Neighborhood Preference

This ordinance creates a third preference category- Neighborhood Preference -to provide residents who live in the neighborhood-*defined as Supervisorial District*-an opportunity to stay in the neighborhood where they reside. Data from 2010 indicates that overcrowding is an issue faced by all San Franciscans, however in certain neighborhoods including the Mission, Chinatown, and the Tenderloin the percentage of overcrowding is almost double that of the Citywide average. Given the impact of overcrowding in these neighborhoods creating a neighborhood preference can provide relief from overcrowding while providing the benefit of allowing residents to stay in their communities.

The new preference would apply to 25% of available units, after any COP holders have exercised their preference, and after any Displaced Tenants have exercised their preference.

Given that neighborhoods can sometimes be over- or under-represented by certain populations MOHCD analyzed whether the preference would result in any disparate impacts to protected groups. Analysis of a hypothetical lottery and occupant selection process demonstrates that a neighborhood preference would not likely result in a discriminatory outcome if the preference is limited to 25% of available housing units in a given lottery. In order to assess whether the proposed neighborhood preference could be discriminatory, two commonly used tests were applied to the original proposal... The application of the two tests demonstrates that a disparate impact is unlikely if the preference is limited to 25% of available housing.

Two key components to the Neighborhood Preference are discussed in greater detail below: an assessment of the proposal's potential to exclude certain ethnicities and races from access to housing, and determining the geography and boundaries of the neighborhood.

### *Disparate Impact Analysis*

Two court informed statistical tests<sup>5</sup>, the Four-Fifths test and a standard deviation analysis known as the Z-score, were used by MOHCD to predict whether the 25% neighborhood preference would result in a Disparate Impact on certain populations. Both tests are used to determine adverse or disparate impact on a particular racial or ethnic group by comparing outcomes to the expected or most selected racial group.

### *The Four-Fifths test*

The four-fifths test is used by the Equal Opportunity Employment Commission to determine if there is adverse impact, or substantially different rate of selection in hiring, which results in a disadvantage for a particular race, sex, or ethnic group. The EEOC has developed the four-fifths

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<sup>5</sup> The application of two tests that have been used by the courts in similar contexts to evaluate adverse impact and bias were applied to the proposed neighborhood preference to measure possible discriminatory effects. The tests are known as the "Four-fifths Test," which is a practical evaluation, and the "Z-score," which is a standard deviation statistical analysis.



test, or 80 percent of the selection rate, as best practice for ensuring that specific populations are not adversely impacted.

*Standard Deviation Analysis or Z-Score:*

The Standard Deviation test is a statistical test that converts the probability of a difference in different selection rates into a standard metric of deviations. The test assesses the probability of discriminatory outcome by statistically evaluating the difference between observed and expected values. For the standard deviation test, results that have greater than two or three deviations could indicate a probable adverse impact.

*Determining the Geography for Neighborhood Preference*

In analyzing the proposed neighborhood preference, MOHCD examined the existing patterns of diversity and segregation within San Francisco; specifically, the evaluation compares the demographics of the city as a whole to the demographics at the smaller neighborhood level. Notable points associated with MOHCD's evaluation include:

- San Francisco is very diverse, but is also moderately to highly segregated; segregation is the most important factor in predicting whether a neighborhood preference may result in a discriminatory outcome;
- A 25% neighborhood preference allows MOHCD to implement a neighborhood preference while limiting the risk of an adverse impact or discriminatory outcome.
- It is important to have sufficiently high numbers of neighborhood residents participate in lotteries in order to ensure the accuracy of the predictive analyses. Without sufficiently high neighborhood level participation, ethnic and racial groups within certain neighborhoods could be adversely impacted.

Results of MOHCD's analysis demonstrated that a 25% neighborhood preference where neighborhood is defined as Supervisorial District limits the risk of an adverse impact or discriminatory outcome.

## REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

## RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The recommendations below are reflected in substitute legislation that will be introduced at the Board of Supervisors on Tuesday, September 22, 2015 a copy of which is included in this report as Exhibit D. The Department recommends the following specific modifications to the proposed Ordinance (Exhibit C):

1. Change Neighborhood preference to Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius.

2. Overlay a priority for half of the Displaced Tenants' units for tenants displaced from the Neighborhood (as defined above). In practice, in a 100 unit building, 20% (20 units) would be available for Displaced Tenants, of which 10 units would be available for Displaced Tenants from the Neighborhood. Neighborhood would use the new neighborhood definition above.
3. Extend the "expiration date" of the displaced tenants from six years from the date of displacement to provide all persons who are displaced a minimum of six years to qualify from the effective date of the ordinance – and once the ordinance is effective, the six year expiration date will be triggered from the date of displacement.

## **BASIS FOR RECOMMENDATION**

The Department is supportive of efforts to assist tenants who have faced residential evictions, which have increased across all categories in the last year. The proposed ordinance expands the definition of a Displaced Tenant to six different categories to include those not just impacted by Ellis Act recognizing that from 2010-2014, eviction notices filed with the Rent Board for all causes have increased 45% Citywide. A neighborhood preference also supports communities that face overcrowding and while providing the benefit of allowing residents to stay in their communities. The Department also supports the removal of these provisions from the Planning Code because this program is administered entirely by MOHCD, and not by the planning Department.

### **Basis for Recommendation #1: Expanding the Neighborhood to include the Supervisor District plus a half mile buffer around a project site**

The Department supports using Supervisorial Districts because smaller geographic boundaries such as MOHCD Neighborhoods, Planning Districts, and Planning Neighborhoods can result in neighborhoods that have less than 100 households. Additionally, some of the small neighborhood geographies studied have no race or ethnic group households for the AMI levels analyzed.

The general expected geography of a walkable neighborhood is defined as a quarter mile to a half mile from home. Expanding the geography to a half mile buffer area will also include residents who live near the project site, but happen to be living in the adjacent Supervisorial District. Additionally, expanding the geography generally strengthens results of the disparate impact analysis, in that expanding the geography generally does not result in an adverse impact.

### **Basis for Recommendation #2: Overlay a priority for half of the Displaced Tenants' units for tenants displaced from the Neighborhood (as defined above)**

Creating a new category for displaced neighborhood residents offers the most preference for displaced tenants who live in the neighborhood where new affordable units are built. In practice, the overlay of a neighborhood preference within the Displaced Tenant category could result in the following: in a 100 unit building, 20% (20 units) are available for Displaced Tenants, of which 10 units would be available for Displaced Tenants from the Neighborhood. Including neighborhood preference for Displaced Tenant recognizes the importance of housing displaced tenants in the neighborhoods from which they were displaced. Additionally, if a resident was displaced but has found housing in the Neighborhood, the resident could still qualify under the Neighborhood preference category.

**Basis for Recommendation #3: Extend the “expiration date” of the Displaced Tenants from six years from the date of displacement to provide Displacees a minimum of six years to qualify from the effective date of the Ordinance.**

The current legislation provides six years from the January 1, 2010 for all categories under Displaced Tenant. If this legislation passes, it will most likely become effective at the end of 2015 or in the beginning of 2016, it would not provide a substantial window of time for Displaced Tenants to qualify under the proposed categories. If a resident was displaced on January 1, 2010, he or she would only have until January 1, 2016 to qualify under all of the categories as currently defined in the legislation. The proposed change would allow all displaced tenants six years from the date of the displacement to qualify under the category of Displaced Tenant- once the Ordinance is effective, the six year expiration date will be triggered from the date of displacement.

**ENVIRONMENTAL REVIEW**

The proposal is not defined as a project under CEQA Sections 15378 and 15060 (c) (2) because it does not result in a physical change in the environment, as determined on July 13, 2015.

**PUBLIC COMMENT**

As of the date of this report, the Planning Department has received one letter from Supervisor Cohen (attached). Supervisor Cohen recommends increasing the percentage of units allocated to the Neighborhood Preference (See Exhibit B). The Planning Department has received no additional public comment in support or opposition on this item. The Mayor’s Office of Housing and Community Development has worked with several Supervisors and community organizations to develop the proposed legislation. The amendments included in the substitute legislation were developed in response to concerns presented to MOHCD; specifically, reserving half of all Displaced Tenants units for neighborhood residents (see Exhibit C), and expanding the geography to include a half mile buffer surrounding the project sites to include residents who live close to the affordable units, but outside of the Supervisorial district (see Exhibit C).

<b>RECOMMENDATION:</b> Recommendation of Approval with Modifications
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Attachments:

Exhibit A: Draft Planning Commission Resolution

Exhibit B: Public Comment

Exhibit C: Proposed Changes in Substitute Legislation

Exhibit D: Proposed Substitute Legislation

Exhibit E: Board of Supervisor File No. 150622



# SAN FRANCISCO PLANNING DEPARTMENT

## Memo to the Planning Commission

HEARING DATE: OCTOBER 22, 2015  
Continued from the September 24, 2015 Hearing

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* Clarifying/Creating Preferences for Affordable Housing Units  
*Case Number:* 2015-008208PCA [Board File No. 150622]  
*Initiated by:* Mayor Ed Lee, Supervisors Christensen, Cohen, Breed, and Wiener/  
Introduced June 30, 2015  
*Staff Contact:* Menaka Mohan, Legislative Affairs  
[menaka.mohan@sfgov.org](mailto:menaka.mohan@sfgov.org), 415-575-9141  
*Reviewed by:* Aaron Starr, Acting Manager of Legislative Affairs  
[Aaron.Starr@sfgov.org](mailto:Aaron.Starr@sfgov.org) 415-558-6362  
*Recommendation:* Approval with Modifications

### BACKGROUND

The Planning Commission [Commission] held an adoption hearing for the ordinance Clarifying and Creating Preferences for Affordable Housing Units on September 24, 2015. In general, the proposed legislation contained two sets of proposals for preference for Citywide Affordable Housing: (1) a new Neighborhood Preference for applicants from the geographic area near a proposed project or unit; and (2) an expanded definition of Displaced Tenants to receive priority. At the adoption hearing, the Commission voted to continue the adoption of the proposed Ordinance for four weeks so that the Staff could analyze additional options for neighborhood boundaries for the Neighborhood Preference as well as continue outreach and discussion related to the proposed expansion of the Displaced Tenant preference; staff from the Mayor's Office of Housing and Community Development (MOHD) has met with stakeholders, including members from the Anti-Displacement Coalition to discuss the Displaced Tenant preference.

### CURRENT PROPOSAL

The current, revised proposal, made by the Planning Department [Department] and MOHCD, on behalf of the Mayor as a legislative sponsor would split the ordinance into two separate pieces of legislation-one piece would focus on the Displaced Tenant category while the other would focus on the Neighborhood Preference. The proposal includes the following:

1. That the Commission recommend that the Displaced Tenant component of the legislation be stricken from the current version of the legislation to allow further discussion and outreach. MOHCD and stakeholders will continue to assess appropriate amendments to the existing Displaced Tenant preference, and will introduce those as a separate Ordinance, which will be referred to the Planning Commission for its review and;
2. That the Board of Supervisors approve the geographic preference component and;
3. That there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

#### REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend approval or disapproval to the Board of Supervisors.

#### PROPOSED RECOMMENDATION

The Department recommends that the Commission recommend approval with modifications of the proposed Ordinance to the Board of Supervisors. The proposed recommendations are as follows:

1. Remove the proposed amendments that would expand the existing Displaced Preference beyond the existing preference for tenants evicted under the provisions of the Ellis Act.
2. Approve the Neighborhood Preference at the Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius.
3. Recognize that there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

#### BASIS FOR RECOMMENDATION

At the September 24th planning commission hearing, discussion of the proposed geographic preference focused on two key components: 1) the size and boundaries of the area in which a resident would be eligible for the preference, and 2) the percentage of new units eligible for the preference. Based on the analysis summarized below, the department and the mayor's office of housing and community development continue to recommend that the geographic preference be applicable at the supervisorial district level plus a ½ mile buffer around a project, and that up to 25% of a project's units be allocated to the new preference.

The following analysis of various defined geographies and percentages was conducted by the Mayor's Office of Housing and Community Development. Please note that the proposed ordinance only applies to the Neighborhood Preference Category while the Displaced Tenant category will be addressed with a separate ordinance.

Based on the criterion detailed below, Supervisorial Districts remain the best geography for implementing a neighborhood preference in a way that creates neighborhood opportunity without excluding other San Franciscans from the development that is occurring in the eastern part of the City. Limiting the units subject to the preference to 25% of new units, the neighborhood preference at the Supervisorial District level is also less likely to result in an adverse impact on neighborhood minority groups. Below is a brief description of the Neighborhoods:

**Supervisorial Districts:** Supervisorial Districts are drawn by Department of Elections Task Force soon after each decennial census to ensure equal distribution of district population. Please see Sec. 13.110 (d) to 13.110 (f) of the City Charter for details on the process of changing the boundaries. The latest boundaries were established in 2012.

**Planning Neighborhoods:** The Planning Neighborhoods consist of 37 neighborhoods and came from the 1990s real estate definition of neighborhoods. The Planning Neighborhoods are used for the neighborhood notification system. Since the 1990s the neighborhoods have been divided up to match the common real estate boundaries and other neighborhood boundaries have also changed. These do not match census tract boundaries and, these boundaries are not codified in the Planning Code.

**Planning Districts:** There are 15 Planning Districts, not including Treasure Island, in the City. These Districts do include Golden Gate Park and the Presidio though no data is reported for those Districts in the Housing Element because there are no housing units produced in these Districts. These Districts were established in the late 1960s and the names of the districts are rather general and are not neighborhoods and function more like areas of the City. In general, these boundaries follow census tracts with a few exceptions. These boundaries are not codified in the Planning Code.

**City Analysis Neighborhoods:** The Department of Public Health and the Mayor’s Office of Housing and Community Development with support from the Planning Department created these 41 neighborhoods using common real estate and residents’ definitions and census tract boundaries for the purpose of providing consistency in the analysis and reporting of socio-economic data, demographic data, and data on City-funded programs and services. They are not codified in Planning Code.

**Table 1: Evaluation Criteria for Neighborhood Preference Geography**

Geography	Number of Geographic Subdivisions	Evenness of Household Population	Variation of Race/Ethnicity	Size of Smallest Neighborhood	Households Excluded from Preference
Supervisory Districts	11	.3775	.6307	10,495	0
Planning Neighborhoods	37	.8963	1.2790	157	65,842
Planning Districts*	17	.6744	.9278	6,791	67,376
City Analysis Neighborhoods**	41	.8580	1.2373	20	22,976

**Evenness of Household Population:** Measures the variation in the number of households between geographic subdivisions: the lower the number, the more even the subdivisions.

**Variation of Race/Ethnicity:** Measures the variation in the number of households by race/ethnicity between geographic subdivisions: the lower the number, the more even the subdivisions.

**Size of the Smallest Neighborhood:** Identifies the number of households in the smallest geographic subdivision. The smaller the number of households the less likely neighborhood participation rate will meet 20%.

**Households Excluded from Preference:** Enumerates the estimated number of households that would not be eligible for a neighborhood preference for 100% affordable and inclusionary housing that is projected to be completed by 2020.

\*There are 16 Planning Districts. An additional subdivision was added to include Treasure Island.

\*\* Golden Gate Park is an identified neighborhood, but was excluded because there is no household population.

**Table 2: Evaluation Matrix of Neighborhood Preference Percentage**

Geography	25% Preference		50% Preference	
	Four-Fifths Analysis	Standard Deviation Analysis	Four-Fifths Analysis	Standard Deviation Analysis

Supervisory Districts	0% (0)	2% (1)	52% (23)	13% (7)
Planning Neighborhoods	0% (0)	3% (5)	58% (83)	23% (41)
Planning Districts	0% (0)	4% (3)	56% (38)	21% (18)
City Analysis Neighborhoods	0% (0)	3% (5)	53% (84)	22% (43)

**Four-Fifth Analysis:** Assesses whether a selection rate for a minority race/ethnic group is less than four-fifths (80%) of the rate for the largest race/ethnic group. A selection rate that is less than four-fifths will generally be regarded as evidence of adverse impact. The tests evaluate, for each geographic sub division, potential access to housing for five race/ethnic categories against the largest race/ethnic group. The matrix enumerates the percentage and the number of tested rates that fall below 80%.

**Standard Deviation Analysis:** Measures the mathematical probability that a nonbiased selection system would produce any fluctuation observed between the actual results and the predicted result for each geographic sub division for five race/ethnic categories. Results greater than two to three standard deviations indicate a possible discriminatory outcome. Matrix enumerates the percentage and the number of geographic subdivisions greater than 3 standard deviations.

The Mayor's Office of Housing and Community Development evaluated a neighborhood preference against four criteria (evenness of household population, variation of race/ethnicity, size of smallest neighborhood, and the number of households that would be excluded from the preference) and two preference percentages (25% and 50%) using four geographic boundaries: Supervisory Districts, Planning Neighborhoods, Planning Districts, and City Analysis Neighborhoods. Of the four evaluated geographies, Supervisory Districts performed better for all four evaluated criteria and for each preference percentage tested. Supervisory Districts have a more even number of households between geographic subdivisions, the least variation in race/ethnicity, and population sizes that best support active neighborhood participation. Furthermore, a preference applied to Supervisory districts will not exclude households from benefitting from a neighborhood preference, as would be the case in all of the other geographic areas tested. With a 25% preference percentage, Supervisory Districts result in no race/ethnic group being selected at rate of less than four-fifths (80%) of the rate for the largest race/ethnic group and is the preference definition least likely to result in a biased selection system. Additionally, unlike the other geographies analyzed, Supervisory Districts are codified in the City Charter through a community process that considers equal population; voting rights act compliance; contiguity; preservation of recognized neighborhoods; preservation of communities of interest; and compactness.

**RECOMMENDATION:** Approve with Recommendations

**Attachments:**

- Exhibit A: Draft Resolution
- Exhibit B: BOS File No. 150622

File Nos. 150422 *ok* 151122  
11/2/15 Presented in Committee

# Neighborhood Preference Program

CITY AND COUNTY OF  
**SAN FRANCISCO**

October 22, 2015

MAYOR EDWIN M. LEE

## Lotteries: Inclusionary Housing Program

### Initial Lease Up

- Outreach and Marketing by Developer;
- Lottery Conducted by MOHCD, at MOHCD:
  - COP holders are pulled and ranked first;
  - EAHP certificate holders pulled and ranked second;
  - Applicants who live/work in SF pulled and ranked third.

### Re-Sale and Re-Rental

- Outreach and Marketing by Developer;
- **Lottery Process Repeated – No Waitlist.**



## EXERCISE - MULTIFAMILY RENTAL

### Initial Lease Up

- Outreach and Marketing by Developer;
- Lottery Conducted by Developer, Off-site (not at MOHCD):
  - COP holders are pulled and ranked first;
  - EAHP certificate holders pulled and ranked second;
  - Applicants who live/work in SF pulled and ranked third.
  - **Waitlist created based on lottery results.**

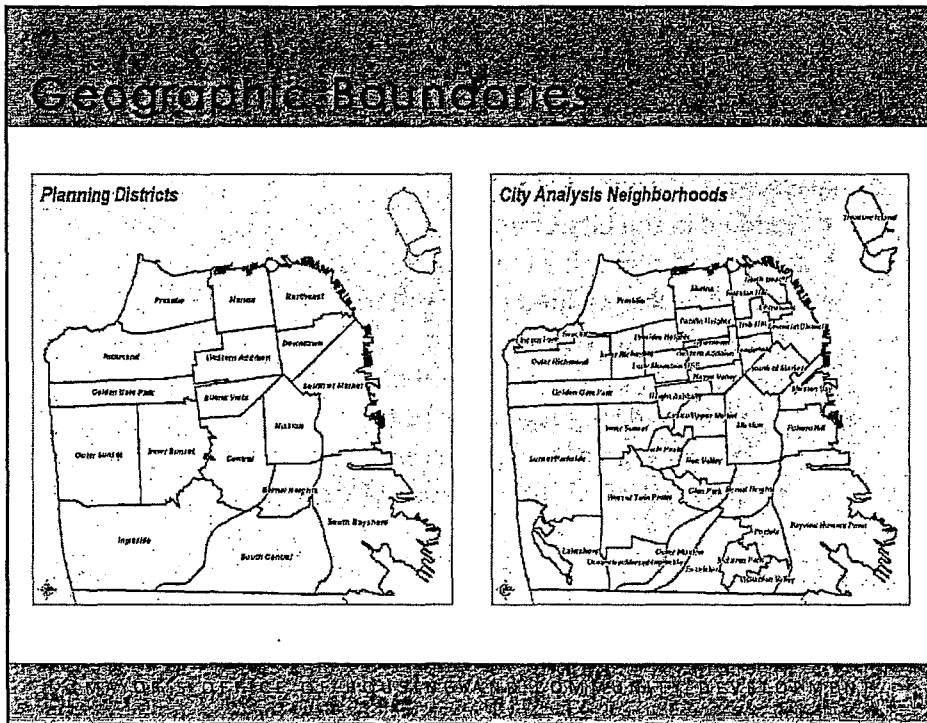
### Re-Rental

- COP holders move to the top of the waitlist;
- EAHP holders move to the top behind COP holders;

## EXERCISE - REGIONAL PLANNING

### Supervisory Districts

### Planning Neighborhoods



## Geographic Boundaries

**Table 1: Evaluation Criteria for Neighborhood Preference Geography**

Geography	Number of Geographic Subdivisions	Events per Household Population	Variation per Household	Size of Neighborhood	Number of Households Excluded
Supervisory Districts	11	.3775	.6307	10,495	0
Planning Neighborhoods	37	.8963	1.2790	157	65,842
Planning Districts	17	.6744	.9278	6,791	22,976
Analysis Neighborhoods	41	.8580	1.2373	20	67,376

### Redistricting Background

**Supervisorial Districts**

- Codified in the City Charter
- Developed through a community process
- Created with a defined set of criteria
  - Equal population
  - Voting Rights Act compliance (racial and language minorities)
  - Preservation of recognized neighborhoods
  - Preservation of communities of interest

### Disparate Impact Analysis

- Created a model neighborhood preference program using household income data by race/ethnicity to assess disparate impact
- Applied two court-informed tests:
  - Four-fifths test
  - Standard deviation analysis
- Applied tests to all four geographies
- Applied tests to multiple preference percentages

## Disparate Impact Analysis

**Table 2: Evaluation Matrix of Neighborhood Preference Percentage**

Geography	25% Preference		40% Preference	
	Formal Disparate Impact Analysis	Standard Deviation Analysis	Formal Disparate Impact Analysis	Standard Deviation Analysis
Supervisory Districts	0% (0)	2% (1)	36% (16)	7% (4)
Planning Neighborhoods	0% (0)	3% (5)	42% (60)	14% (25)
Planning Districts	0% (0)	4% (3)	40% (27)	13% (11)
Analysis Neighborhoods	0% (0)	3% (5)	34% (55)	15% (2)

## Conclusion

- Based on the geographic and disparate impact analysis, a 25% neighborhood preference using Supervisory Districts combined with a ½ mile project buffer bests creates enhanced neighborhood opportunity without excluding households because of geography or race/ethnicity.



San Francisco | San Jose | Oakland

October 31, 2015

Land Use & Transportation Committee  
San Francisco Board of Supervisors  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

RE: **Clarifying/Creating Preferences for Affordable Housing Units**  
Case Number 2015-008208PCA (Board File No. 150622)yy

Dear Supervisors Cohen, Kim and Wiener:

On behalf of SPUR, thank you for the opportunity to comment on the proposed ordinance that would clarify and create preferences for the allocation of affordable housing units.

In the midst of this housing crisis, many long-time San Francisco residents are facing displacement pressures, and the city is searching for tools to help keep residents in their homes and communities. This expansion of the existing preference for affordable housing is a thoughtful effort to support tenants who have faced non-Ellis Act evictions and give existing San Francisco residents more opportunities to remain in their communities, particularly those that are experiencing growth.

SPUR supports this legislation and encourages you to recommend adoption by the full Board of Supervisors.

Please feel free to contact me if you have any questions.

Best,

Kristy Wang  
Community Planning Policy Director

Cc: SPUR Board of Directors  
Mayor Ed Lee  
Supervisor London Breed  
Supervisor Julie Christensen

BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

November 6, 2015

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

The Board of Supervisors' Land Use and Transportation Committee amended the following legislation on November 2, 2015:

**File No. 150622-3**

Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located; to make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b); although, the Commission held a public hearing on this matter and provided their recommendation on October 26, 2015. If the Commission wishes to provide additional recommendations, please provide those to me.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Assistant Clerk  
Land Use and Transportation Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
AnMarie Rodgers, Senior Policy Manager  
Scott Sanchez, Zoning Administrator  
Sarah Jones, Chief, Major Environmental Analysis  
Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



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San Francisco 94102-4689  
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Fax No. 554-5163  
TDD/TTY No. 554-5227

November 6, 2015

**File No. 150622-3**

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

The Board of Supervisors' Land Use and Transportation Committee amended the following legislation on November 2, 2015:

**File No. 150622-3**

Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located; to make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

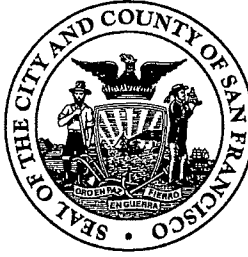
A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning


BOARD of SUPERVISORS



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TDD/TTY No. 554-5227

## MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board  
Olson Lee, Director, Mayor's Office of Housing and Community Development  
Bevan Dufty, Director, Housing Opportunity, Partnerships and Engagement  
Theo Miller, Director, HOPE SF

FROM:  Alisa Somera, Assistant Clerk  
Land Use and Transportation Committee, Board of Supervisors

DATE: November 6, 2015

SUBJECT: AMENDED LEGISLATION

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The Board of Supervisors' Land Use and Transportation Committee amended the following legislation on November 2, 2015:

**File No. 150622-3**

Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located; to make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Eugene Flannery, Mayor's Office of Housing and Community Development  
Sophie Hayward, Mayor's Office of Housing and Community Development  
Dee Schexnayder, Housing Opportunity, Partnerships and Engagement  
Christine Keener, Housing Opportunity, Partnerships and Engagement  
Barbara Amaro, HOPE SF



BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

September 29, 2015

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On September 29, 2015, Mayor Lee introduced the following substitute legislation:

**File No. 150622**

**Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and provide for preference to displaced tenants from the Neighborhood; to make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Andrea Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use and Transportation Committee

c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
AnMarie Rodgers, Senior Policy Manager  
Scott Sanchez, Zoning Administrator  
Sarah Jones, Chief, Major Environmental Analysis  
Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning 1181

## Major, Erica (BOS)

---

**From:** Major, Erica (BOS)  
**Sent:** Tuesday, September 29, 2015 2:29 PM  
**To:** Ionin, Jonas (CPC)  
**Cc:** Ausberry, Andrea; Rahaim, John (CPC); Starr, Aaron (CPC); Rodgers, AnMarie (CPC); Sanchez, Scott (CPC); Jones, Sarah (CPC); Poling, Jeanie (CPC); Navarrete, Joy (CPC)  
**Subject:** REFERRAL PC (150622 Version 2) - Administrative, Planning Codes - Preferences in Affordable Housing Programs  
**Attachments:** 150622-2 PC.pdf

Good Afternoon,

Attached is a referral for BOS File No. 150622, which is being referred to the Planning Commission for public hearing and recommendation. Please forward the Commission's response as soon as it is available.

Thank You.

Sent on behalf of [Andrea.Ausberry@sfgov.org](mailto:Andrea.Ausberry@sfgov.org), Assistant Clerk, Land Use and Transportation Committee.

**Erica Major**

**Assistant Committee Clerk**

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Phone: (415) 554-4441 | Fax: (415) 554-5163

[Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



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Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

September 29, 2015

File No. 150622

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On September 22, 2015, Mayor Lee introduced the following substitute legislation:

**File No. 150622**

**Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and provide for preference to displaced tenants from the Neighborhood; to make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

## Major, Erica (BOS)

---

**From:** Major, Erica (BOS)  
**Sent:** Tuesday, September 29, 2015 2:27 PM  
**To:** Jones, Sarah (CPC)  
**Cc:** Ausberry, Andrea; Navarrete, Joy (CPC); Poling, Jeanie (CPC)  
**Subject:** REFERRAL ER (150622 Version 2) - Administrative, Planning Codes - Preferences in Affordable Housing Programs  
**Attachments:** 150622-2 ER.pdf

Greetings:

Attached is a referral for the Planning Department's environmental review. Please forward your determination to [Andrea.Ausberry@sfgov.org](mailto:Andrea.Ausberry@sfgov.org) as soon as possible.

Thank you in advance.

(Sent on behalf of Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee)

**Erica Major**

**Assistant Committee Clerk**

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Phone: (415) 554-4441 | Fax: (415) 554-5163

[Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



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Tel. No. 554-5184  
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## MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board  
Olson Lee, Director, Mayor's Office of Housing and Community Development  
Bevan Dufty, Director, Housing Opportunity, Partnerships and Engagement  
Theo Miller, Director, HOPE SF

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee,  
Board of Supervisors

DATE: September 29, 2015

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Mayor Lee on September 22, 2015:

**File No. 150622**

**Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and provide for preference to displaced tenants from the Neighborhood; to make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:  
Eugene Flannery, Mayor's Office of Housing and Community Development  
Sophie Hayward, Mayor's Office of Housing and Community Development  
Dee Schexnayder, Housing Opportunity, Partnerships and Engagement  
Christine Keener, Housing Opportunity, Partnerships and Engagement  
Barbara Amaro, HOPE SF

## Major, Erica (BOS)

---

**From:** Major, Erica (BOS)  
**Sent:** Tuesday, September 29, 2015 2:26 PM  
**To:** Wolf, Delene (RNT); Lee, Olson (MYR); Dufty, Bevan (DSS); Miller, Theodore (MYR); Miller, Theodore (MYR)  
**Cc:** Flannery, Eugene (MYR); Hayward, Sophie (MYR); Schexnayder, Dee (MYR); Keener, Christine (MYR); 'barbara.amaro@sfgov.org'; Ausberry, Andrea  
**Subject:** REFERRAL FYI (150622 Version 2) - Administrative, Planning Codes - Preferences in Affordable Housing Programs  
**Attachments:** 150622-2 - FYI.pdf

Greetings:

This matter is being forwarded to your department for informational purposes. If you have any comments or reports to be included with the file, please forward them to [Andrea.Ausberry@sfgov.org](mailto:Andrea.Ausberry@sfgov.org) at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

Thank You.

*Sent on behalf of Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee.*

**Erica Major**  
**Assistant Committee Clerk**  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102  
Phone: (415) 554-4441 | Fax: (415) 554-5163  
[Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

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## Somera, Alisa (BOS)

---

**From:** Lauren Skellen <Lauren.Skellen@sfgov.org>  
**ant:** Tuesday, November 03, 2015 4:15 PM  
**fo:** Somera, Alisa (BOS); Givner, Jon (CAT); Zarefsky, Paul (CAT); Allie Saperstein; Millsaps, Melissa (CAT)  
**Cc:** Hayward, Sophie (MYR); Elliott, Nicole (MYR); Cleveland-Knowles, Susan (CAT)  
**Subject:** Prefereced in Affordable Housing Programs  
**Attachments:** LEG DIG 1 LU COMMITTEE 11 -2-15 (NEIGHBORHOOD PREF ONLY, 40).DOC; ORD 1 LU COMMITTEE 11-2-15 (NEIGHBORHOOD PREF ONLY, 40).DOC; LEG DIG 2 LU COMMITTEE 11 -2-15 (NEIGHBORHOOD PREF ONLY, 40, PLUS WIENER LIVE WORK).DOC; ORD 2 LU COMMITTEE 11-2-15 (NEIGHBORHOOD PREF ONLY, 40, Plus LiveWork).DOC

File No. 1500661

Alisa -

Attached, please find the ordinances as amended in the Land Use Committee yesterday and revised legislative digests. The file was split, so there are two ordinances. Ordinance 1 is the version that will be heard next week and Ordinance 2 is the ordinance that needs to be referred back to the Planning Commission.

**Ordinance 1:**

- The amendments suggested by MOHCD and accepted by the Committee to delete the provisions related to expanded Displaced Tenants (and including changes requested by your office);
- 25% changed to 40% for neighborhood preference

**Ordinance 2:**

- The amendments suggested by MOHCD and accepted by the Committee to delete the provisions related to expanded Displaced Tenants (and including changes requested by your office);
- 25% changed to 40% for neighborhood preference
- Sup. Wiener's amendment to create a fourth preference for people who live or work in San Francisco

Please call me if you have any questions.

Thank you,  
Susan

~~~~~  
Lauren Skellen  
Legal Secretary  
San Francisco City Attorney's Office  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 234  
San Francisco, CA 94102  
(415) 554-4761 direct  
(415) 554-4757 facsimile  
Lauren.Skellen@sfgov.org

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**PROPOSED AMENDMENTS**

11/2/2015 Mayor's Office of Housing & Community Development  
(Accepted)

[Administrative, Planning Codes - Preferences in Affordable Housing Programs]

Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, ~~create additional categories of eligible displaced tenants and provide for preference to displaced tenants from the Neighborhood~~, and make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~Arial font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this determination.



1 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
5 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.  
6

7 Section 2. The Administrative Code is hereby amended by deleting Section 24.8, as  
8 follows:

9 ~~**SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS FOR**~~  
10 ~~**CERTIFICATE OF PREFERENCE HOLDERS AND DISPLACED TENANTS.**~~

11 *This Section shall apply to all programs related to the provision of affordable housing, unless*  
12 *specified otherwise. To the extent permitted by law, the Mayor's Office of Housing and Community*  
13 *Development ("MOHCD") or its successor shall give or require project sponsors or their successors in*  
14 *interest funded through MOHCD to give, preference in occupying units or receiving assistance under*  
15 *all City affordable housing programs, including all former San Francisco Redevelopment Agency*  
16 *affordable housing programs administered or funded by the City, first to Residential Certificate of*  
17 *Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant*  
18 *Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with*  
19 *the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or assistance;*  
20 *and second to any Displaced Tenant, as defined herein, who meets all of the qualifications for the unit*  
21 *or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:*  
22 *(i) a Displaced Tenant may apply the preference to existing, currently occupied developments only for*  
23 *three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration*  
24 *Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to*  
25 *the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the*

1 ~~San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~  
2 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~  
3 ~~going through the initial occupancy process only for six years from the date the landlord filed with the~~  
4 ~~Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis~~  
5 ~~Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new~~  
6 ~~residential development going through the initial occupancy process, the Displaced Tenant preference~~  
7 ~~shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's~~  
8 ~~preference shall still apply even if such Displaced Tenant declines a unit offered through application of~~  
9 ~~the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced~~  
10 ~~Tenant's preference terminates.~~

11 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
12 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
13 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
14 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
15 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
16 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
17 ~~this paragraph are directory rather than mandatory.~~

18 ~~For purposes of this Section, "Displaced Tenant" shall mean any tenant residing in San~~  
19 ~~Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to~~  
20 ~~withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the~~  
21 ~~corresponding provisions of the Rent Ordinance, cited above, and, who, as of the date of receipt of the~~  
22 ~~notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least~~  
23 ~~ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life~~  
24 ~~threatening illness as certified by his or her primary care physician or that he or she is disabled, as~~  
25 ~~defined in Administrative Code Section 37.9(i). MOHCD shall establish a process for a tenant to verify~~

1 ~~his or her status as a "Displaced Tenant," which, at a minimum, shall require a tenant to show: (i) the~~  
2 ~~landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental~~  
3 ~~market; (ii) the tenant meets the ten or five year residency requirement stated above; and (iii) the~~  
4 ~~tenant either: (A) is listed on the notice of withdrawal; (B) is listed on the lease for the unit in question;~~  
5 ~~or (C) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she has~~  
6 ~~lived in the unit for the required five or ten year period as applicable. If the Rent Board grants a~~  
7 ~~landlord's request to rescind the Notice of Intent to Withdraw Rental Units under the Ellis Act before a~~  
8 ~~tenant moves out of his or her unit, such tenant shall no longer qualify as a "Displaced Tenant."~~  
9 ~~Additionally, if a person disputes a MOHCD determination that he or she does not qualify as a~~  
10 ~~"Displaced Tenant" under this Section, such person shall have the right to a hearing conducted by a~~  
11 ~~Rent Board Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with~~  
12 ~~MOHCD as the responding party.~~

13 ~~The Board of Supervisors shall hold a hearing on the status of this Section within 2 years of the~~  
14 ~~effective date of Ordinance 232-08 to assess its impact, or at such time as the MOHCD certifies to the~~  
15 ~~Board of Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference~~  
16 ~~holders obtaining an affordable housing unit by taking advantage of the applicable preferences in this~~  
17 ~~Section in all of the City's affordable housing programs combined exceeds 50% of the total number of~~  
18 ~~units made available through the City's affordable housing programs in that year.~~

19 ~~The Board of Supervisors shall hold an initial hearing to assess the impact of the Displaced~~  
20 ~~Tenant preference within one year of the effective date of the ordinance creating the Displaced Tenant~~  
21 ~~preference. The Board of Supervisors shall hold a subsequent hearing within three years of the effective~~  
22 ~~date, at which MOHCD and the Rent Board shall submit a report on the demographics and income~~  
23 ~~levels of beneficiaries of the Displaced Tenant preference system.~~

1 Section 3. The Administrative Code is hereby amended by adding Chapter 47,  
2 consisting of Sections 47.1, 47.2, 47.3, 47.4, and 47.5 to read as follows:

3 **CHAPTER 47: PREFERENCE IN CITY AFFORDABLE HOUSING PROGRAMS**

4 **SEC. 47.1 FINDINGS AND PURPOSE.**

5 Based on the information presented to the Board of Supervisors in Board of Supervisor's File  
6 No. \_\_\_\_\_, staff presentations, and public testimony, the Board of Supervisors makes the  
7 following findings:

8 (a) In 2008, the City enacted Ordinance 232-08, to establish a preference in occupying units or  
9 receiving assistance under all City affordable housing programs to Residential Certificate of  
10 Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant  
11 Preference Program. In 2013, the City enacted Ordinance 277-13, to establish a second preference in  
12 occupying units or receiving assistance under all City affordable housing programs to certain San  
13 Francisco residents displaced by an eviction under the Ellis Act, California Government Code Section  
14 7060 et seq.

15 ~~(b) From 2010 to 2014, eviction notices filed with the Rent Board for all causes (not~~  
16 ~~just evictions under the Ellis Act) increased 45% Citywide. Within specific neighborhoods,~~  
17 ~~including the Mission, the Sunset/Parkside, the Outer Richmond, the Tenderloin, and the~~  
18 ~~Castro, the percentage of eviction notices recorded was significantly higher than the Citywide~~  
19 ~~average.~~

20 ~~(c) From 2010 to 2014~~During that same period, average residential rents increased 54%  
21 Citywide. Moreover, rents in those neighborhoods with the highest number of eviction notices filed  
22 have risen by a greater percentage over the same time period, including the Castro (145%), the Outer  
23 Richmond (137%), the Sunset/Parkside (121%), and the Mission (by 108%).

1           (cd) While current market rate rents in San Francisco are unaffordable to more than 60% of  
2 all rental households in the City, current market rate rents are unaffordable to 100% of all low- and  
3 moderate-income San Francisco households earning less than 120% Area Median Income.

4           (e) San Francisco tenants are being displaced through evictions, and current market  
5 rate rents are unaffordable to the majority of San Francisco renters. Thus, when  
6 displacement now occurs, remaining in San Francisco and paying market rate rent is not a  
7 viable option for most San Francisco residents, especially low and moderate-income  
8 households.

9           (df) Affordable housing in San Francisco is a scarce resource with limited availability. In  
10 addition, production of affordable housing in San Francisco has not kept pace with population growth,  
11 nor have the Regional Housing Needs Allocation goals for affordable housing been met.

12           (g) A preference in qualifying for affordable housing for residents who have been, or  
13 are about to be, displaced is necessary to achieve the important public purpose of increasing  
14 opportunities for those residents to continue to live in San Francisco even as market rate rents  
15 rise.

16           (eh) 2010 data show that overcrowding is an issue faced by San Franciscans Citywide, and  
17 that there are specific neighborhoods, including the Mission, Chinatown, and the Tenderloin, in which  
18 the percentage of overcrowded households is close to double that of the Citywide average.

19           (fi) Compounding the problem of overcrowding, nearly half of all San Franciscans are  
20 currently rent burdened, paying more than 30% of household income toward rent. Approximately 22%  
21 of San Francisco renters are severely rent burdened, meaning they pay more than 50% of their  
22 household income toward rent.

23           (gj) The high cost of housing is a significant factor in causing low- and very-low income  
24 households to leave the City: 63% of people who moved out of San Francisco between 2011-2013 were  
25 members of low- or very-low income households.

1 (hk) It is a necessary and important public purpose to provide relief for these economic and  
2 social ills arising from the housing challenges facing most San Franciscans. But because of the trends  
3 in current San Francisco market rate rents, moving low- and very-low income households into market  
4 rate housing in San Francisco is not a viable option.

5 (il) A limited preference for existing neighborhood residents that can be applied to a portion of  
6 new affordable housing developments in San Francisco will provide an opportunity to current low- and  
7 very-low income residents that are living in overcrowded housing configurations to move into  
8 appropriately sized units without leaving the community. This preference will also help provide relief  
9 for rent burdened low- and very-low income households while allowing them to benefit from  
10 new affordable housing development within their communities.

11 (jm) In addition, it is in the City's interest to assist residents in preserving their existing  
12 community-based safety nets, such as access to schools, after school programs, stores, community  
13 centers, places of worship, and health care providers. A neighborhood preference will help to preserve  
14 community webs that serve as efficient safety nets and enhance the quality of life for neighborhood  
15 residents.

16 (kn) Developers, community advocates, and residents have a long history of collaboration on  
17 housing development in San Francisco. A neighborhood preference for current low income residents  
18 for a portion of new affordable housing opportunities acknowledges this collaboration and will help  
19 increase participation in this process, which will in turn help generate additional support for, and  
20 contribute to, the successful approval of more affordable housing development in San Francisco.

21 **SEC. 47.2 DEFINITIONS.**

22 "City Affordable Housing Programs" shall mean, unless specified otherwise, all programs  
23 related to the provision of affordable housing administered or funded by MOHCD, including but not  
24 limited to Tax Exempt Bond Developments. "City Affordable Housing Programs" does not include  
25 programs or affordable housing units exclusively supported by the Department of Housing and Urban

1 Development, the San Francisco Human Services Agency, the San Francisco Department of Public  
2 Health, or the San Francisco Housing Authority.

3 "Displaced Tenant" shall mean any person who applies to MOHCD and who MOHCD  
4 determines qualifies for any one of the categories enumerated under the criterion below. If a  
5 person disputes MOHCD's determination that he or she does not qualify as a "Displaced Tenant"  
6 under this Section 47.2, such person shall have the right to a hearing conducted by a Rent Board  
7 Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with MOHCD as the  
8 responding party:

9 Category 1: A tenant residing in San Francisco who on or after January 1, 2010  
10 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant to the  
11 Ellis Act, Government Code Section 7060 et seq., and corresponding provisions of the Rent Ordinance.  
12 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced Tenant" under  
13 Category 1 that, at a minimum, shall require a tenant to show: (a) the landlord filed with the Rent  
14 Board a Notice of Intent to Withdraw; and (b) the tenant either: (1) is listed on the Notice of Intent to  
15 Withdraw; (2) is listed on the lease for the unit in question; or (3) has other evidence sufficient to  
16 establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time the Notice of  
17 Intent to Withdraw was filed. If the Rent Board grants a landlord's request to rescind the Notice of  
18 Intent to Withdraw before a tenant moves out of his or her unit, such tenant shall no longer qualify as a  
19 "Displaced Tenant."

20 ~~Category 2: A tenant residing in San Francisco who on or after January 1, 2010~~  
21 ~~receives a notice that his or her landlord plans to recover possession of the unit for any one of~~  
22 ~~the "no fault" eviction provisions under Sections 37.9(a)(8) through (16) of the Rent~~  
23 ~~Ordinance. MOHCD shall establish a process for a tenant to verify his or her status as a~~  
24 ~~"Displaced Tenant" under Category 2 that, at a minimum, shall require a tenant to show: (a)~~  
25 ~~the landlord filed with the Rent Board the notice to vacate, as required under Rent Ordinance~~

1 ~~Section 37.9(e); and (b) the tenant either: (1) is listed on the notice to vacate; (2) is listed on~~  
2 ~~the lease for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's~~  
3 ~~reasonable discretion, that he or she resided in the unit at the time the notice to vacate was~~  
4 ~~filed.~~

5 ~~Category 3: A tenant residing in San Francisco who on or after January 1, 2010~~  
6 ~~is ordered to vacate his or her unit by a public safety official due to fire or other disaster, and~~  
7 ~~who can provide sufficient evidence to MOHCD that demonstrates that he or she cannot~~  
8 ~~return to the unit within a reasonable period of time (as determined by MOHCD) thereafter.~~  
9 ~~MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced~~  
10 ~~Tenant" under Category 3 that, at a minimum, shall require a tenant to show: (a) a public~~  
11 ~~safety official provided an order to vacate the unit; and (b) the tenant either: (1) is listed on the~~  
12 ~~order to vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence~~  
13 ~~sufficient to establish, in MOHCD's reasonable discretion, that he or she resided in the unit at~~  
14 ~~the time the order was provided.~~

15 ~~Category 4: A tenant residing in San Francisco on or after January 1, 2010 in a~~  
16 ~~unit that is subject to affordability restrictions in a Tax Exempt Bond Development, or a similar~~  
17 ~~type of development with expiring affordability restrictions that the Director of MOHCD~~  
18 ~~determines are unable to be extended, where such restrictions will expire within one year of~~  
19 ~~the tenant's application to MOHCD for status as a Displaced Tenant, or have already expired.~~  
20 ~~MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced~~  
21 ~~Tenant" under Category 4 that, at a minimum, shall require a tenant to show: (a) the landlord~~  
22 ~~provided notice to the tenant that the affordability restrictions applicable to that unit have~~  
23 ~~expired or will be expiring; and (b) the tenant either: (1) is listed on the notice regarding~~  
24 ~~expiration of affordability restrictions; (2) is listed on the lease for the unit in question; or (3)~~  
25



1 has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she  
2 resided in the unit at the time the notice was provided to the tenant.

3 ~~Category 5: A tenant residing in San Francisco on or after January 1, 2010 in a~~  
4 ~~Below Market Rate unit restricted under the San Francisco Inclusionary Affordable Housing~~  
5 ~~Program, Planning Code Section 415 et seq., where the Below Market Rate unit is~~  
6 ~~transitioning from a rental unit to an ownership unit, and the tenant provides sufficient~~  
7 ~~evidence to MOHCD that demonstrates that he or she is not able to purchase the unit due to~~  
8 ~~financial reasons. MOHCD shall establish a process for a tenant to verify his or her status as~~  
9 ~~a "Displaced Tenant" under Category 5 that, at a minimum, shall require a tenant to show: (a)~~  
10 ~~the landlord provided notice to the tenant of the intent to convert the unit to an ownership unit;~~  
11 ~~and (b) the tenant either: (1) is listed on the notice; (2) is listed on the lease for the unit in~~  
12 ~~question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion,~~  
13 ~~that he or she resided in the unit at the time the notice was provided to the tenant.~~

14 ~~Category 6: A tenant residing in San Francisco on or after January 1, 2010 who~~  
15 ~~can document that he or she was, or will be, displaced due to the loss of a legal residential~~  
16 ~~unit through a residential demolition or residential merger (as both terms are defined in~~  
17 ~~Planning Code Section 317) authorized by any City permit, or the loss of an illegal unit~~  
18 ~~resulting from a merger or demolition authorized by any City permit. MOHCD shall establish a~~  
19 ~~process for a tenant to verify his or her status as a "Displaced Tenant" under Category 6 that,~~  
20 ~~at a minimum, shall require a tenant to show: (a) the Planning Commission or Planning~~  
21 ~~Department approved the residential demolition or residential merger; and (b) the tenant~~  
22 ~~either: (1) is listed on a Notice required by the Rent Board; (2) is listed on the lease for the unit~~  
23 ~~in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable~~  
24 ~~discretion, that he or she resided in the unit at the time the approval was granted.~~

1 "MOHCD" shall mean the Mayor's Office of Housing and Community Development or its  
2 successor.

3 "Neighborhood" shall mean any one of the 11 Supervisorial Districts as defined and  
4 established in the San Francisco Charter, Appendix E plus a buffer such that for each unit or project  
5 that is part of a City Affordable Housing Program "Neighborhood" means the Supervisorial District in  
6 which the unit or project is located, plus a 1/2 mile buffer around the location of the unit or project.

7 "Neighborhood Resident" shall mean any person who has a primary residence in a certain  
8 Neighborhood at the time he or she applies for a unit or assistance. MOHCD shall establish a process  
9 for a person to verify status as a "Neighborhood Resident" for a particular Neighborhood, which, at a  
10 minimum, shall require a person to show: (a) that he or she is listed on the lease for a unit in that  
11 Neighborhood; or (b) other evidence sufficient to establish, in MOHCD's reasonable discretion, that  
12 the person resides in a unit in that Neighborhood. If a person disputes a MOHCD determination that he  
13 or she does not qualify as a "Neighborhood Resident" under this Section 47.2, such person shall have  
14 the right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in  
15 Administrative Code Section 37.2(f)), with MOHCD as the responding party.

16 "Rent Board" shall mean the Residential Rent Stabilization and Arbitration Board.

17 "Rent Ordinance" shall mean the San Francisco Rent Stabilization and Arbitration Ordinance,  
18 Administrative Code Chapter 37.

19 "Residential Certificate of Preference Holders" shall mean a person who holds a Residential  
20 Certificate of Preference under the San Francisco Redevelopment Agency's Property Owner and  
21 Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on  
22 file with the Clerk of the Board in File No. 080521.

23 "Tax Exempt Bond Development" shall mean any housing development financed through a tax-  
24 exempt bond issuance that imposes rent and occupancy restrictions as a condition of the financing.

1                    **SEC. 47.3 APPLICATION OF PREFERENCE.**

2                    Except to the extent prohibited by an applicable State or Federal funding source, MOHCD shall  
3 give, or require project sponsors or their successors in interest funded through MOHCD to give,  
4 preference in occupying units or receiving assistance under all City Affordable Housing Programs.  
5 Each preference enumerated below shall be applied as of the effective date of the legislation  
6 establishing each preference. The City established preference for holders of Certificates of Preference  
7 in Ordinance 232-08, Displaced Tenants, Category 1 in Ordinance 277-13, and Displaced Tenants,  
8 Categories 2 through 6 and Neighborhood Residents in legislation adding this Chapter 47. The  
9 preference requirements are intended to have prospective effect only, and shall not be interpreted to  
10 impair the obligations of any pre-existing contract entered into by the City. Notwithstanding the prior  
11 sentence, the preference requirements shall apply to contracts entered into by the City on or after the  
12 effective date of the legislation establishing each preference, including contracts materially amended  
13 on or after the effective date. Preference shall be given:

14                    (a) First, to Residential Certificate of Preference Holders, who meet all of the qualifications for  
15 the unit or assistance. Preference under this subsection (a) shall be given in 100% of the units in all  
16 initial sales, re-sales, initial leases, and subsequent leases.

17                    (b) Second, to any Displaced Tenant who meets all of the qualifications for the unit or  
18 assistance. For any Displaced Tenant displaced prior to the effective date of this Chapter 47,  
19 preference under this subsection (b) shall expire six years from the effective date of this Chapter  
20 47. For any Displaced Tenant displaced after the effective date of this Chapter 47, preference under  
21 this subsection (b) shall expire six years from the date of the earliest of any of the following  
22 circumstances: (i) the landlord filed with the Rent Board a Notice of Intent to Withdraw; (ii) the  
23 landlord filed with the Rent Board the notice to vacate pursuant to the Rent Ordinance Section  
24 37.9(c); (iii) a public safety official provided the order to vacate to the tenant; (iv) the landlord  
25 provided notice to the tenant that the affordability restrictions applicable to that unit will be

1 expiring; (v) the landlord provided notice to the tenant that the unit is transitioning from a  
2 rental unit to an ownership unit; or (vi) the residential demolition or residential merger of the  
3 tenant's unit, as defined in Planning Code Section 317, was approved by the Planning  
4 Commission or Planning Department. Preference under this subsection (b) shall be applicable to:

5 (1) 20% of the units in any new residential development that is part of a City Affordable  
6 Housing Program going through the initial occupancy or sale process; and

7 (2) units in all re-sales and subsequent leases until 20% of all units that are part of a  
8 City Affordable Housing Program in a building are occupied by tenants who have exercised this  
9 preference.

10 ~~\_\_\_\_\_ (3) 50% of the units for which Preference under this subsection (b) is applicable~~  
11 ~~will be prioritized for Displaced Tenants who were living in the Neighborhood in which the~~  
12 ~~units are located at the time of their displacement, such that 50% of the units in subsection (1)~~  
13 ~~subject to the preference shall be prioritized first for Displaced Tenants who were living in the~~  
14 ~~Neighborhood in which the units are located at the time of their displacement; and units~~  
15 ~~subject to subsection (2) shall be prioritized first for Displaced Tenants who were living in the~~  
16 ~~Neighborhood in which the units are located at the time of their displacement until 10% of all~~  
17 ~~the units that are part of a City Affordable Housing Program in a building are occupied by~~  
18 ~~Displaced Tenants who were living in the Neighborhood.~~

19 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a  
20 unit offered through application of the preference, but upon accepting and occupying a unit obtained  
21 using the preference, such Displaced Tenant's preference terminates.

22 (c) Third, to a Neighborhood Resident, who meets all of the qualifications for the unit or  
23 assistance. Preference under this subsection (c) shall be given:

24 (1) for units located in the same Neighborhood as the person resides;  
25

1                   (2) only for any new residential development in that Neighborhood going through the  
2 initial occupancy or sale process, and only to 25% of the units in such development.

3                   **SEC. 47.4. IMPLEMENTATION AND MONITORING.**

4                   (a) Certificate of Preference. ~~The Board of Supervisors shall hold a hearing on the~~  
5 ~~status of the legislation creating the Certificate of Preference preference, Ordinance 232-08,~~  
6 ~~within two years of its effective date to assess its impact, or at such time as the MOHCD~~  
7 ~~certifies to the Board of Supervisors that, If in any one fiscal year, the percent of Residential~~  
8 ~~Certificate of Preference holders obtaining an affordable housing unit by taking advantage of the~~  
9 ~~Certificate of Preference preference in all of the City's affordable housing programs combined exceeds~~  
10 ~~50% of the total number of units made available through the City's affordable housing programs in that~~  
11 ~~year, MOHCD shall submit a report to that effect to the Board of Supervisors along with a~~  
12 ~~proposed resolution to formally accept the report.~~

13                   (b) Displaced Tenant and Neighborhood Preferences. MOHCD shall implement the Displaced  
14 Tenant and Neighborhood preference requirements of this Chapter 47 by developing procedures and  
15 amending its applicable regulations within 90 days of the effective date of the ordinance adding this  
16 Chapter 47. ~~Said procedures and regulations shall be subject to approval by Resolution of the~~  
17 ~~Board of Supervisors. The requirements of this paragraph are directory rather than mandatory.~~

18                   Within one year of the effective date of the ordinance adopting this Chapter 47,  
19 MOHCD shall submit to the ~~The Board of Supervisors or a committee thereof shall hold an initial~~  
20 hearing to assess a report assessing the impact of the Displaced Tenant and Neighborhood  
21 preferences along with a proposed resolution to formally accept the report, within one year of  
22 the effective date of this Chapter 47. ~~The Board of Supervisors or a committee thereof shall~~  
23 hold a subsequent hearing ~~w~~Within three years of the effective date of this Chapter 47, at which  
24 MOHCD and the Rent Board shall submit a report on the demographics and income levels of

1 beneficiaries of the Displaced Tenant and Neighborhood preference system, along with a proposed  
2 resolution to formally accept the report.

3 **SEC. 47.5. SEVERABILITY.**

4 If any section, subsection, sentence, clause, phrase, or word of this Chapter 47, or any  
5 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
6 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining  
7 portions or applications of the Chapter. The Board of Supervisors hereby declares that it would have  
8 passed the ordinances establishing this Chapter and each and every section, subsection, sentence,  
9 clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other  
10 portion of this Chapter or application thereof would be subsequently declared invalid or  
11 unconstitutional.

12  
13 Section 4. The Administrative Code is hereby amended by revising Sections 37.6,  
14 43.3.4, 10.100-110, and 10.100-370, to read as follows:

15 **SEC. 37.6. POWERS AND DUTIES.**

16 In addition to other powers and duties set forth in this Chapter, and in addition to  
17 powers under the Charter and under other City Codes, including powers and duties under  
18 Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Board shall have  
19 the power to:

20 \* \* \* \*

21 (o) As provided by Administrative Code ~~Section~~ Chapter 24.847, utilize Administrative  
22 Law Judges to hear and decide petitions from persons who dispute the Mayor's Office of  
23 Housing and Community Development's determination that such person does not qualify as a  
24 "Displaced Tenant" or a "Neighborhood Resident" (each as defined in Administrative Code  
25 ~~Section~~ Chapter 24.847).

1  
2       **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

3           Following payment of costs of issuance, 85 percent of the bond proceeds will be used  
4 for the development of affordable rental housing through the development account described  
5 in the regulations, and 15 percent of the bond proceeds will be used for downpayment  
6 assistance for low and moderate income first-time homebuyers through the downpayment  
7 assistance loan account described in the program regulations; including all legally permissible  
8 administrative costs related to the program. The Mayor's Office of Housing and Community  
9 Development ("MOHCD") shall develop procedures and amend its regulations such that, for  
10 all projects funded by this affordable housing and home ownership bond program, including  
11 multifamily rental projects and down payment assistance to individual households, it requires  
12 the project sponsor or its successor in interest to give preference in occupying units or  
13 receiving assistance as provided for in Administrative Code Chapter 47. first to Residential  
14 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner  
15 and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and  
16 on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or  
17 assistance; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who  
18 meets all of the qualifications for the unit or assistance, provided that the following limitations shall  
19 apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,  
20 currently occupied developments only for three years from the date the landlord filed with the  
21 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
22 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
23 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration  
24 Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced  
25 Tenant may apply the preference to new developments going through the initial occupancy process only

1 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~  
2 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~  
3 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
4 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
5 ~~the units in such development. The Displaced Tenant's preference shall still apply even if such~~  
6 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
7 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

8 ~~—MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
9 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
10 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
11 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
12 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
13 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
14 ~~this paragraph are directory rather than mandatory.~~

#### 15 **SEC. 10.100-110. MAYOR'S HOUSING AFFORDABILITY FUND.**

16 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a  
17 category two fund to receive any prior legally binding obligations any grants, gifts, bequests  
18 from private sources for the purposes cited in subsection (b), any monies repaid to the City as  
19 a result of loans made by the City to developers to assist in the development of affordable  
20 housing, any repayments of monies to the City where the City is beneficiary under a  
21 promissory note which was acquired as a result of the City's housing affordability assistance,  
22 any repayments of loans made from this fund and any monies otherwise appropriated to the  
23 fund.

24 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing  
25 financial assistance to for-profit and nonprofit housing developers, where the contribution of



1 monies from the fund will allow units in a project to be affordable to persons and families of  
2 low and moderate income. City departments may recover any costs of administering any  
3 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of  
4 Housing and Community Development ("MOHCD") shall develop procedures and amend its  
5 regulations such that, for all projects funded by this fund, it requires the project sponsor or its  
6 successor in interest to give preference in occupying units or receiving assistance as provided  
7 for in Administrative Code Chapter 47. first to Residential Certificate of Preference Holders under the  
8 San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as  
9 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in  
10 File No. 080521, who meet all of the qualifications for the unit or assistance; and second to any  
11 Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications  
12 for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant  
13 preference: (i) a Displaced Tenant may apply the preference to existing, currently occupied  
14 developments only for three years from the date the landlord tiled with the Residential Rent  
15 Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from  
16 the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the  
17 corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent  
18 Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply  
19 the preference to new developments going through the initial occupancy process only for six years from  
20 the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the  
21 rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent  
22 Ordinance; and (iii) for any new residential development going through the initial occupancy process,  
23 the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such  
24 development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant  
25

1 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~  
2 ~~obtained using the preference, such Displaced Tenant's preference terminates.~~

3 ~~—MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
4 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
5 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
6 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
7 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
8 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
9 ~~this paragraph are directory rather than mandatory.~~

10 **SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.**

11 (a) Establishment of Fund. The HOPE SF Fund is hereby established as a category  
12 four fund for the purpose of assisting in the replacement and/or rehabilitation of distressed  
13 public housing projects in the City and County of San Francisco.

14 \* \* \* \*

15 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of  
16 Housing and Community Development ("MOHCD"). The Director of MOHCD shall  
17 promulgate such rules and regulations as he or she may deem appropriate to carry out the  
18 provisions of the fund. Such rules and regulations shall be developed in consultation with any  
19 appropriate agencies or organizations with which the Director, or his or her designee, may  
20 choose to consult. The rules and regulations shall be subject to a public hearing and  
21 approved by resolution of the Board of Supervisors. MOHCD shall develop procedures such  
22 that, for all projects funded by the HOPE SF Fund, MOHCD requires the project sponsor or its  
23 successor in interest to give preference in occupying units as provided for in Administrative Code  
24 Chapter 47. first to any current occupants of a housing development receiving Funds, second to  
25 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's

1 ~~Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective~~  
2 ~~October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the~~  
3 ~~qualifications for the unit; and third to any Displaced Tenant, as defined in Administrative Code~~  
4 ~~Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following~~  
5 ~~limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the~~  
6 ~~preference to existing, currently occupied developments only for three years from the date the landlord~~  
7 ~~filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to~~  
8 ~~withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government~~  
9 ~~Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization~~  
10 ~~and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;~~  
11 ~~(ii) a Displaced Tenant may apply the preference to new developments going through the initial~~  
12 ~~occupancy process only for six years from the date the landlord filed with the Rent Board a notice of~~  
13 ~~intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and~~  
14 ~~the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development~~  
15 ~~going through the initial occupancy process, the Displaced Tenant preference shall apply only to~~  
16 ~~twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still~~  
17 ~~apply even if such Displaced Tenant declines a unit offered through application of the preference, but~~  
18 ~~upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's~~  
19 ~~preference terminates.~~

20 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
21 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
22 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
23 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
24 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
25

1 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
2 ~~this paragraph are directory rather than mandatory.~~

3  
4 Section 5. The Planning Code is hereby amended by revising Sections 413.10, 415.5,  
5 415.6 and 415.7, to read as follows:

6 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

7 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to  
8 Section 413.9 shall be deposited in the special fund maintained by the Controller called the  
9 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated  
10 in accordance with law to be used solely to increase the supply of housing affordable to  
11 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing  
12 and Community Development ("MOHCD") shall develop procedures such that, for all projects  
13 funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its  
14 successor in interest to give preference in occupying units as provided for in Administrative Code  
15 Chapter 47. first to Residential Certificate of Preference Holders under the San Francisco  
16 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September  
17 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who  
18 meet all of the qualifications for the unit; and second to any Displaced Tenant, as defined in  
19 Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance,  
20 provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced  
21 Tenant may apply the preference to existing, currently occupied developments only for three years from  
22 the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board")  
23 a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act,  
24 California Government Code Section 7060 et seq. and the corresponding provisions of the San  
25 Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code

1 Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments  
2 going through the initial occupancy process only for six years from the date the landlord filed with the  
3 Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis  
4 Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new  
5 residential development going through the initial occupancy process, the Displaced Tenant preference  
6 shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's  
7 preference shall still apply even if such Displaced Tenant declines a unit offered through application  
8 of the preference, but upon accepting and occupying a unit obtained using the preference, such  
9 Displaced Tenant's preference terminates.

10 MOHCD shall implement the Certificate of Preference Holder requirements of this Section by  
11 developing procedures and amending its applicable regulations within 90 days of the effective date of  
12 Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of  
13 this Section by developing procedures and amending its applicable regulations within 90 days of the  
14 effective date of the ordinance creating the Displaced Tenant preference. Said procedures and  
15 regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements  
16 of this paragraph are directory rather than mandatory.

17 The Fund shall be administered and expended by the Director of MOHCD, who shall  
18 have the authority to prescribe rules and regulations governing the Fund which are consistent  
19 with Section 413.1 et seq. No portion of the Fund may be used, by way of loan or otherwise, to  
20 pay any administrative, general overhead, or similar expense of any entity.

21 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

22 \* \* \* \*

23 (f) Use of Fees. All monies contributed pursuant to this Section shall be deposited in  
24 the special fund maintained by the Controller called the Citywide Affordable Housing Fund.

1 The Mayor's Office of Housing and Community Development ("MOHCD") shall use the funds  
2 in the following manner:

3 (1) Except as provided in subsection (2) below, the receipts in the Fund are  
4 hereby appropriated in accordance with law to be used to:

5 (A) increase the supply of housing affordable to qualifying households  
6 subject to the conditions of this Section; and

7 (B) provide assistance to low and moderate income homebuyers; and

8 (C) pay the expenses of MOHCD in connection with monitoring and  
9 administering compliance with the requirements of the Program. MOHCD is authorized to use  
10 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under  
11 Section 415.9(e) and to update the affordable housing fee amounts as described above in  
12 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated  
13 through the annual budget process or supplemental appropriation for MOHCD. The fund shall  
14 be administered and expended by MOHCD, which shall have the authority to prescribe rules  
15 and regulations governing the Fund which are consistent with this Section.

16 (2) "Small Sites Funds."

17 (A) Designation of Funds. MOHCD shall designate and separately  
18 account for 10% percent of all fees that it receives under Section 415.1 et seq., excluding fees  
19 that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to  
20 support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall  
21 continue to divert 10 percent of all fees for this purpose until the Small Sites Funds reach a  
22 total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At  
23 such time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD  
24 shall start designating funds again for this purpose, such that at no time the Small Sites Funds  
25 shall exceed \$15 million. When the total amount of fees paid to the City under Section

1 415.1et seq. totals less than \$10 million over the preceding 12 month period, MOHCD is  
2 authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD  
3 must keep track of the diverted funds, however, such that when the amount of fees paid to the  
4 City under Section 415.1et seq. meets or exceeds \$10 million over the preceding 12 month  
5 period, MOHCD shall commit all of the previously diverted funds and 10 percent of any new  
6 funds, subject to the cap above, to the Small Sites Fund.

7 (B) Use of Small Sites Funds. The funds shall be used exclusively to  
8 acquire or rehabilitate "Small Sites" defined as properties consisting of less than 25 units.  
9 Units supported by monies from the fund shall be designated as housing affordable to  
10 qualifying households as defined in Section 415.1 for no less than 55 years. Properties  
11 supported by the Small Sites Funds must be either:

12 (i) rental properties that will be maintained as rental properties;  
13 (ii) vacant properties that were formerly rental properties as long  
14 as those properties have been vacant for a minimum of two years prior to the effective date of  
15 this legislation;

16 (iii) properties that have been the subject of foreclosure; or  
17 (iv) a Limited Equity Housing Cooperative as defined in  
18 Subdivision Code Sections 1399.1et seq. or a property owned or leased by a non-profit entity  
19 modeled as a Community Land Trust.

20 (C) Initial Funds. If, within 18 months from *April 23, 2009 the date of*  
21 *adoption of this ordinance*, MOHCD dedicates an initial one-time contribution of other eligible  
22 funds to be used initially as Small Sites Funds, MOHCD may use the equivalent amount of  
23 Small Sites Funds received from fees for other purposes permitted by the Citywide Affordable  
24 Housing Fund until the amount of the initial one-time contribution is reached.

1 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a  
2 report to the Board of Supervisors regarding the amount of Small Sites Funds received from  
3 fees under this legislation, and a report of how those funds were used.

4 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the  
5 Board of Supervisors does not intend to preclude MOHCD from expending other eligible  
6 sources of funding on Small Sites as described in this Section, or from allocating or expending  
7 more than \$15 million of other eligible funds on Small Sites.

8 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD  
9 requires the project sponsor or its successor in interest to give preference *as provided for in*  
10 *Administrative Code Chapter 47. in-occupying units first to Residential Certificate of Preference*  
11  *Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference*  
12  *Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of*  
13  *the Board in File No. 080521, who otherwise meet all of the requirements for a unit; and second to any*  
14  *Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications*  
15  *for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant*  
16  *preference: (i) a Displaced Tenant may apply the preference to existing, currently occupied*  
17  *developments only for three years from the date the landlord filed with the Residential Rent*  
18  *Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from*  
19  *the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the*  
20  *corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent*  
21  *Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply*  
22  *the preference to new developments going through the initial occupancy process only for six years from*  
23  *the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the*  
24  *rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent*  
25  *Ordinance; and (iii) for any new residential development going through the initial occupancy process,*



1 *the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such*  
2 *development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant*  
3 *declines a unit offered through application of the preference, but upon accepting and occupying a unit*  
4 *obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it is the*  
5 *policy of the City to treat all households equally in allocating affordable units under this Program.*

6 \* \* \* \*

7 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

8  
9 \* \* \* \*

10  
11 (d) Marketing the Units. The Mayor's Office of Housing and Community Development  
12 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable  
13 units under this Section. In general, the marketing requirements and procedures shall be  
14 contained in the Procedures Manual as amended from time to time and shall apply to the  
15 affordable units in the project. MOHCD may develop occupancy standards for units of  
16 different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of  
17 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers  
18 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a  
19 list of minimum qualifications for marketing firms that market affordable units under Section  
20 415.5 et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No  
21 developer marketing units under the Program shall be able to market affordable units except  
22 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or  
23 conditions of approval shall specify that the marketing requirements and procedures  
24 contained in the Procedures Manual as amended from time to time, shall apply to the  
25 affordable units in the project.

1 (1) Lottery. At the initial offering of affordable units in a housing project and  
2 when ownership units become available for re-sale in any housing project subject to this  
3 Program after the initial offering, MOHCD must require the use of a public lottery approved by  
4 MOHCD to select purchasers or tenants.

5 (2) Preferences. MOHCD shall create a lottery system that gives preference  
6 according to the provisions of Administrative Code Chapter 47. the following preferences (A) first to  
7 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
8 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
9 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications  
10 of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,  
11 who meets all of the qualifications for the unit or assistance, provided that the following limitations  
12 shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to  
13 existing, currently occupied developments only for three years from the date the landlord filed with the  
14 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
15 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
16 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration  
17 Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced  
18 Tenant may apply the preference to new developments going through the initial occupancy process only  
19 for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the  
20 tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding  
21 provisions of the Rent Ordinance; and (iii) for any new residential development going through the  
22 initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of  
23 the units in such development; and (C) third to people who live or work in San Francisco who meet the  
24 qualifications of the Program. The Displaced Tenant's preference shall still apply even if such  
25 Displaced Tenant declines a unit offered through application of the preference, but upon accepting and

1 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

2 MOHCD shall propose policies and procedures for implementing these preferences to the  
3 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the  
4 City to treat all households equally in allocating affordable units under this Program.

5 \* \* \* \*

6 **SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.**

7 \* \* \* \*

8 (e) Marketing the Units. MOHCD shall be responsible for overseeing and monitoring  
9 the marketing of affordable units under this Section. In general, the marketing requirements  
10 and procedures shall be contained in the Procedures Manual as amended from time to time  
11 and shall apply to the affordable units in the project. MOHCD may develop occupancy  
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13 an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that  
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15 MOHCD shall develop a list of minimum qualifications for marketing firms that market  
16 affordable units under Section 415.1 et seq., referred to the Procedures Manual as Below  
17 Market Rate (BMR units). No project sponsor marketing units under the Program shall be  
18 able to market BMR units except through a firm meeting all of the minimum qualifications.  
19 The Notice of Special Restrictions or conditions of approval shall specify that the marketing  
20 requirements and procedures contained in the Procedures Manual as amended from time to  
21 time, shall apply to the affordable units in the project.

22 (1) Lottery. At the initial offering of affordable units in a housing project and  
23 when ownership units become available for resale in any housing project subject to this  
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21 Displaced Tenant declines a unit offered through application of the preference, but upon accepting and  
22 occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.  
23 MOHCD shall propose policies and procedures for implementing these preferences to the  
24 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the  
25 City to treat all households equally in allocating affordable units under this Program.

1 \* \* \* \*

2  
3 Section 6. Effective Date. This ordinance shall become effective 30 days after  
4 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
5 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
6 of Supervisors overrides the Mayor's veto of the ordinance.

7  
8 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
12 additions, and Board amendment deletions in accordance with the "Note" that appears under  
13 the official title of the ordinance.

14  
15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18 By: SUSAN CLEVELAND-KNOWLES  
19 Deputy City Attorney

20 n:\egana\as2015\1500661\01056740.docx

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE  
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *for* Mayor Edwin M. Lee *NE*  
RE: Substitute Ordinance – File No. 150622 - Administrative, Planning Codes -  
Preferences in Affordable Housing Programs  
DATE: September 22, 2015

Attached for introduction to the Board of Supervisors is a substitute ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants and provide for preference to displaced tenants from the Neighborhood, and make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department's determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Please note that this item is co-sponsored by Supervisors Christensen, Cohen, Breed and Wiener.

I respectfully request that this item be calendared in Land Use Committee on October 26<sup>th</sup>, 2015.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

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